

ANNUAL REPORT 2002



Labour Relations Board





BRITISH COLUMBIA
LABOUR RELATIONS BOARD

2002
ANNUAL REPORT

Ministry of Skills Development and Labour
Honourable Graham Bruce, Minister

September 17, 2003

The Honourable Graham Bruce
Minister of Skills Development and Labour
Parliament Buildings
Victoria, B.C.
V8V 1X4

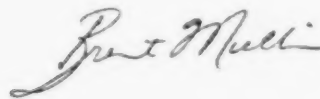
Dear Mr. Minister:

RE: Labour Relations Board 2002 Annual Report

I am pleased to forward the 2002 Annual Report of the Labour Relations Board for the year ended December 31, 2002. Due to the extensive efforts expended in 2002/2003 dealing with staff reduction planning, the report is submitted later than in previous years. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,

LABOUR RELATIONS BOARD

A handwritten signature in cursive script, reading "Brent Mullin".

Brent Mullin
Chair

Enclosure



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CHAIR'S MESSAGE

It was my privilege to be Chair of the Board in 2002. It was a year which presented many challenges to the Board. I am pleased to be able to report that the Board and its staff have successfully met those challenges.

The challenges started with the government's Core Review process. Under it, as a government funded agency, the Board was required to justify all aspects of its activities.

From its outset in 1973, the British Columbia Labour Code (now the Labour Relations Code) has been the most comprehensive labour relations legislation in Canada. That comprehensive approach to labour relations was enhanced in 1987 with the incorporation of collective bargaining mediation services under the Code.

Under the leadership of the previous executive, in the Core Review process the Board strongly defended its role in that comprehensive approach to labour relations. Generally speaking, the Board was successful in maintaining all of its major functions, including the provision of mediation services. We owe great thanks to the Board's previous executive for that, in particular to Associate Chair (Adjudication) Fran Watters and Associate Chair (Mediation) Irene Holden.

The Core Review process was followed by the announcement of a significant budget cut. With the target date being April 1, 2004, the Board is required to meet a budget cut of approximately 40% of its former operational costs. Meeting this challenge has required ingenuity and sacrifice from the Board and its staff.

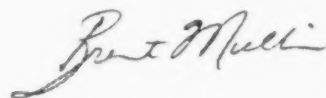
Key to surviving the budget cut, while maintaining the highest possible levels of service, was the Board's initiative to move to less costly premises. That process, and meeting the budget cuts overall, was greatly aided by a former Chairman, Adjudication Division, of the Board, G. Bud Gallagher, who was retained on a consulting basis. With the aid of Bud's expertise and doggedness, the Board was successful in obtaining much less costly, but attractive premises.

The large savings in premises expenditures has effectively saved many jobs at the Board and protected the Board's ability to fulfill its role under the Code. Unfortunately, however, the Board library could not be saved under the Core Review and budget requirements.

As well, despite the Board's best efforts in respect to premises and other initiatives, staff reductions were required in order for the Board to ultimately be able to meet the budget target. The impact of the reductions was mitigated through early retirement and voluntary departure programs. Nonetheless, there were layoffs. We were very sorry to lose valued colleagues and friends. We thank them for their service and dedication to the Board.

In 2002 there were also significant legislative amendments to the Code. Amendments to Sections 8 and 6(1) addressed the right to communicate in a non-intimidating and non-coercive manner. Amendments to Section 2 addressed the Board's duty to administer the Code in a way which recognizes the principles in that section.

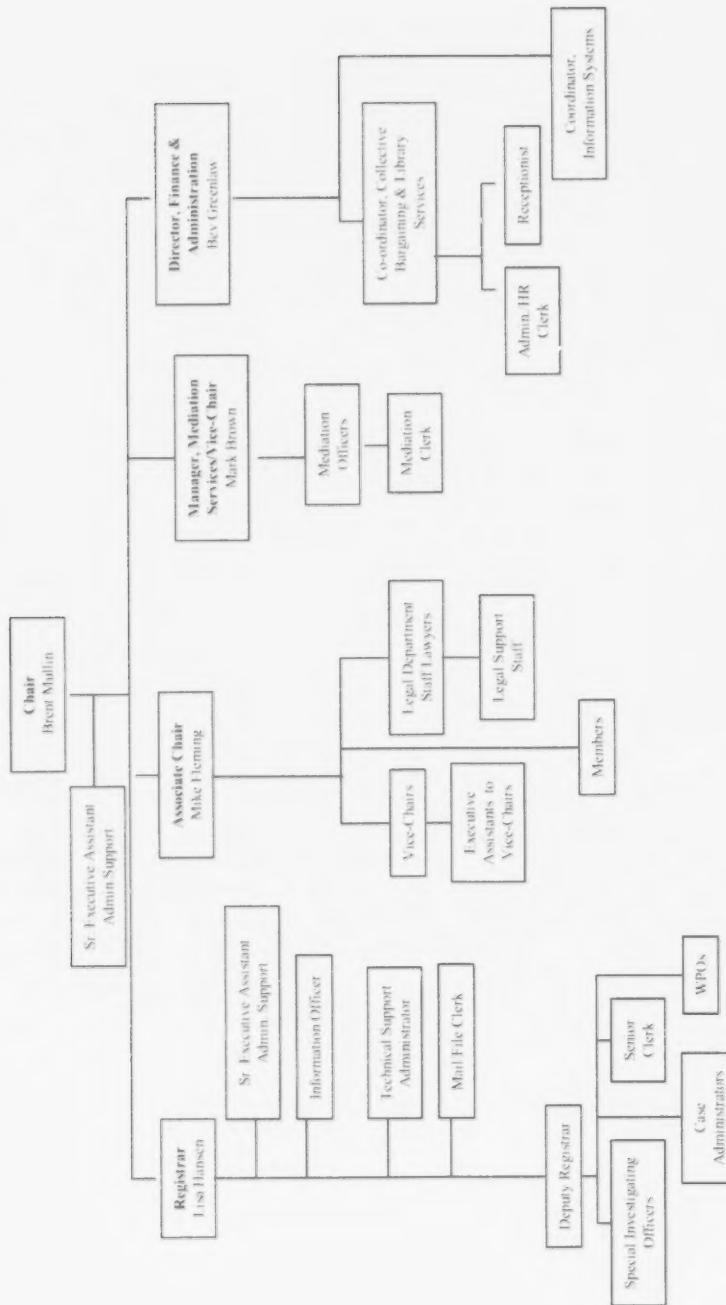
In meeting all of these challenges, the Board has relied on the commitment, expertise, and resilience of its staff. I am confident that we have at the Board both the platform and the dedicated, talented staff to meet our obligations and challenges under the Code, and thereby continue to serve the labour relations community and public interest of British Columbia.



Brent Mullin

Chair

**Labour Relations Board
Organizational Chart**
January 2003



I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility in labour relations matters under several other statutes.

In carrying out its mandate, the Board must at all times have regard to the purposes and objects of the Code. These are set out in Section 2(1):

2. (1) The following are the purposes of this Code:
- (a) to encourage the practice and procedure of collective bargaining between employees and trade unions as the freely chosen representatives of employees;
 - (b) to encourage co-operative participation between the employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing work force

- skills and promoting workplace productivity;
- (c) to minimize the effects of labour disputes on persons who are not involved in the dispute;
- (d) to promote conditions favourable to the orderly, constructive and expeditious settlement of disputes between employers and trade unions;
- (e) to ensure that the public interest is protected during labour disputes;
- (f) to encourage the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(3) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Registrar, one to act as Associate Chair and one to act as the Manager, Mediation Services. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(4) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chairs of Mediation and Adjudication and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides

at all proceedings of the Board and on all panels of which the Chair is a member.

C. REGISTRY

Every application received by the Board, except those relating to mediation, is processed through the Registrar's office. Administration and progress of each non-mediation case is overseen by the Registry until the matter is finally disposed of. Four case administrators, each dealing with a geographic area of the Province, are responsible for initiation of applications and the conduct of files.

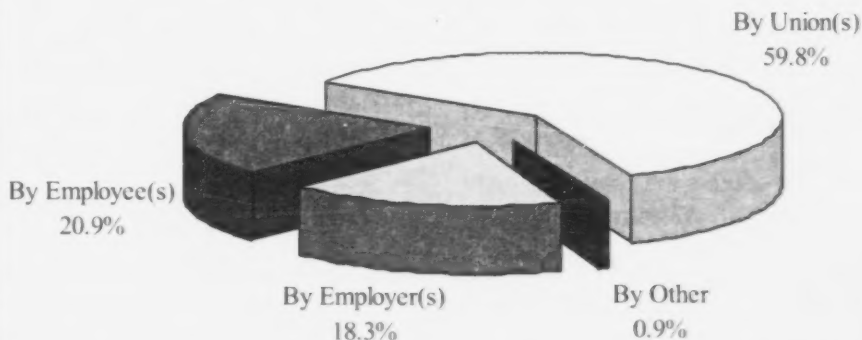
Processing of all non-mediation applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

The Registry processes applications on either an expedited or non-expedited basis.

Legislated time frames, combined with established Board policies and procedures, result in approximately 42 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints must be adjudicated within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, case administrators are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.

2002 Applications and Complaints by Type of Applicant



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their case load involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 11 of

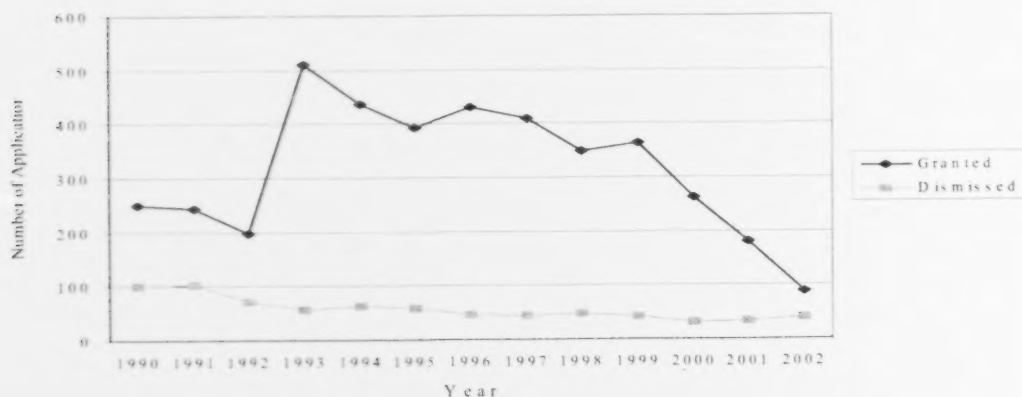
the statistical tables, approximately 65 percent of unfair labour practice complaints and Part 5 complaints referred to officers are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers of the Employment Standards Branch of the Ministry of Labour. For example, every application for certification or decertification requires a report by an Industrial Relations Officer. Such reports are public, with only names and numbers remaining confidential to the Board.

Both SIOs and Industrial Relations Officers (IROs) also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a

C e r t i f i c a t i o n D e c i s i o n s



wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them. In 2000, 108 letters were sent seeking additional information before processing Section 12 Applications.

In accordance with Section 122(3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. His responsibilities to date have encompassed two main areas: handling incoming inquiry calls, and preparing written material for the public and the labour relations community.

The Information Officer deals with between 30 and 40 calls per day, from employers, unions, individual employees and media representatives. In September of 2002, the Information Officer position was reduced to three days per week.

The Board's publications include an *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The Guide is also available in French, Chinese and Punjabi translations. The day after the Notice and Guide are sent to

employers, the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process*, has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual has now been in use since April, 1995. An updated version of the Manual will be available in 2001.

The Board's web site was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The web site address is www.lrb.bc.ca.

D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the Labour Relations Code Amendment Act, 2002, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its special investigating officers (SIO's) and mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's case administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, though its director, must also maintain a register of arbitrators. A joint advisory committee, as appointed by the Minister, must advise the director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee. As of this writing, the Bureau is awaiting ministerial appointment of members to the Joint Advisory Committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the *Labour Relations Code*. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, close to 1,400 cases are adjudicated each year. The number of cases assigned for adjudication in 2002 was down from the average. A comparison of cases assigned for adjudication and adjudicated for the past six years is set out in the accompanying table. The Adjudication Division published 399 decisions, a slight decrease from the year before where 481 decisions were issued. Summaries of the key cases are found elsewhere in this Report.

A major portion of the Division's workload continues to be the adjudication of expedited applications (including certifications, unfair labour practice and

Part 5 applications). During 2002, expedited applications comprised about 51% of cases received in the Board's major adjudication areas.

The work of the Division was carried out by 14 Vice-Chairs (11 full-time and three part-time).

Two Vice-Chairs were renewed this year: John Hall and Mark Brown. Over the course of the year Tony Hickling and Gordon Van Dyck resigned from their positions of Vice-Chair. Neither of those positions were filled. Fran Watters, Associate Chair (Adjudication) resigned from her position. Michael Fleming assumed the position of Associate Chair. His previous position of Vice-Chair was not filled. By year's end the number of Vice-Chairs was reduced to eleven (nine full-time and two part-time).

The backlog of outstanding cases averaged 28 over the course of the year. As of December 31, 2002, there were 32 part-time Members, representing either employers or employees, for assignment to hearing panels.

A reduced staff of two full-time lawyers and a senior staff lawyer (down from three staff lawyers in 2001) provided legal services to the Adjudication Division. Marketta Jokinen resigned from her position as staff lawyer. Her position was not filled. The lawyers provide a wide range of support to the Board, including legal research, attending hearings, maintaining precedents and other resources, and representing the Board in judicial review proceedings before the courts.

	1997	1998	1999	2000	2001	2002
Applications Assigned for Adjudication	1,545	1,584	1,603	1,365	1,258	860
Applications Adjudicated	1,569	1,562	1,628	1,404	1,293	957
Applications Outstanding at Year End	369	435	410	371	336	239

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. These and other services are provided under the direction of the Manager, Mediation Services.

Information about the services available from the Mediation Division can be obtained by telephone at (604) 660-9656 or via the Board's web site (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the *Labour Relations Code* administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55. In 2002, mediators were appointed to 106 cases under Section 74 and 14 cases under Section 55. Mediators were also involved in a further 44 cases which were carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain public sector disputes is also part of the mandate of the Mediation Division. In 2002, mediators were involved in mediating the establishment of essential service levels in the education sector.

Conflict Management

During 2002, the Mediation Division revised the focus of its conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest-based problem solving, the use of interest based and rights based processes, promotion of dispute resolution throughout all levels of the organization. Openness and broad based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship by Objective Program

One of the forums for exploring conflict and designing conflict management systems has been the Relationship by Objectives program. The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, Mediation staff determine if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including meetings, surveys, and/or focus group discussions. Following this initial assessment, a representative sampling of the stakeholders attend a two or three-day session away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, timeframes for achieving the goals and assignment of specific individuals responsible for ensuring that action plans are carried out.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the

establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of a day, depending on the needs of the parties.

Grievance Mediation

Mediators often provide assistance to employers and unions to resolve grievances or other problems related to the operation of their collective agreement. A joint written request can be submitted to the Associate Chair (Mediation) to obtain grievance mediation assistance. In the year 2002, 44 requests were received. Each request often contained many grievances. The majority resulted in mediated settlements of the grievances.

Collective Bargaining Information System

The Mediation Division gathers and publishes information on collective bargaining and related labour relations matters. The Collective Bargaining Information System utilizes a costing model which measures total compensation, including the costs of both wage and benefit improvements. End rate costing is used to measure the level of the compensation changes at the end of each contract year.

The data contained in the Collective Bargaining Information System is available to interested parties on-line on a fee for service basis. Users can conduct customized searches of the data based on an industry sector, work performed, geographic location and length of the collective agreement. Interested parties may contact the Mediation Division for more information on the system and free demonstrations.

G. ADMINISTRATION

Information Systems

The Board has a Compaq Alpha Server computer running a Digital UNIX operating system. The in-house applications running on the computer are written in PowerHouse and the information/data collected is stored in an Interbase database. The Board is also running Microsoft Windows NT Server 4.0 as a file and print server.

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, library management and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

H. LIBRARY

In September of 2002 the Labour Relations Board Library was closed due to budget cutbacks. Wherever possible, information has been added to the Board's website.

II. BOARD MEMBERS AND MEDIATORS

In 2002 the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau DuMoulin). From 1992 to 1998 he served as a Vice-Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002 he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, Chair of the Employment Standards Tribunal.

FRANCES R. WATTERS, *Associate Chair (Adjudication) (to March 22, 2002)*

Fran Watters obtained her Bachelor of Laws degree from the University of Victoria in 1983. She then clerked with the British Columbia Supreme Court for one year before she was hired by the Labour Relations Board as a staff lawyer. In 1988 she joined the Vancouver firm of Alexander, Holburn, Beaudin & Lang where she became a partner in 1992. While at Alexander, Holburn, Beaudin & Lang, Ms. Watters' professional practice focused on labour, employment and human rights law. Ms. Watters was appointed to her current post in July of 1998.

IRENE HOLDEN *Associate Chair (Mediation) (to August 21, 2002)*

Irene Holden was appointed as Associate Chair (Mediation) in October of 2000, after acting in that capacity since December of 1999. Ms. Holden was a Mediator with the Board from 1992 until 1997, at which time she was appointed as a Vice Chair in the Adjudication Division, until her return to the Mediation Division as Associate Chair. Prior to coming to the Board in 1992, she was the Senior Labour Relations Officer at B.C. Hydro where she acted for the employer in all labour relations matters, including collective bargaining, grievance/arbitration handling. Ms. Holden received her education in Nova Scotia, primarily at Acadia and Dalhousie Universities.

LISA HANSEN, *Registrar*

Lisa Hansen was appointed Registrar effective April 7, 1997. At the time of her appointment she was Executive Co-Director of the Health Sciences Association of B.C. HSA represents over 10,000 health care professionals in British Columbia. Prior to becoming Executive Co-Director in 1993, Ms. Hansen was Assistant Executive Director one year and Senior Labour Relations Officer for 12 years. She became active in HSA while working as a Registered Medical Laboratory Technologist. Ms. Hansen was a part-time Board Member from 1994 until her appointment as Registrar. On October 11, 2000, Ms. Hansen was reappointed to a further five-year term.

VICE-CHAIRS

MARK J. BROWN, *Manager Mediation Services and Vice Chair*

Mark Brown was appointed to the Board as Vice Chair commencing February 1, 1996. Mark also served as a Board Mediator commencing in March of 2001. In September of 2002 as part of the Board's restructuring initiative, Mark was appointed Manager Mediation Services. Mark graduated from Ryerson in Toronto in 1977 with a Bachelor of Business Management Degree. He joined the Canadian Red Cross as an Administrator of one of its centers in Toronto. In 1981 he joined Versa Services Ltd. as its Industrial Relations Manager responsible for collective bargaining and labour relations for Canada. From 1985 to 1995 he was employed by the Health Employers Association of B.C., and one of its predecessor associations. As the Director of Consulting Services, he was responsible for collective bargaining, third party hearings and human resource management for the community care sector. In 1995 he briefly held a similar position for the Community Social Services Employers' Association before joining the Board.

MICHAEL FLEMING, *Associate Chair*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received a LL.B. in 1988 from the University of British Columbia and then articulated and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

JOHN B. HALL, *Vice Chair*

John Hall obtained his Bachelor of Laws degree from the University of British Columbia in 1980. He then articulated and became an associate with the Vancouver law firm of Alexander, Holburn, Beaudin & Lang where his professional practice was restricted to labour and employment law. Mr. Hall served as a Vice Chair of the Labour Relations Board from 1985 to 1987. He returned to his former firm where he became a partner in 1988. Mr. Hall continued his labour and employment law practice, with an increasing portion of his work being appointments as a neutral in unjust dismissal adjudications and labour arbitrations. He was appointed to the Board as Associate Chair (Adjudication) in 1992 and resigned effective May 31, 1998. He was re-appointed as a part-time Vice Chair for a one-year term, commencing December 14, 1998 and re-appointed to a further one-year term.

M. A. (Tony) HICKLING, *Vice Chair (to April 12, 2002)*

Tony Hickling taught labour law at the University of British Columbia from 1966 to 1969, and at the University of Western Ontario from 1969 to 1974 and at the University of British Columbia again from 1974 to 1999. In addition to his LL.B and Ph.D. degrees, he received a LL.D. from the University of London in 1976. He has been very active as an arbitrator, as well as editing *Western Labour Arbitration Cases* and organizing arbitration seminars sponsored by the Continuing Legal Education Society. In addition to many article on arbitration and labour law, he is author of "Citrine's Trade Union Law", 3rd edition, 1967 and "Labour Disputes and Unemployment Insurance Benefits in Canada and England", CCH Canadian, 1975. Tony advises that contrary to popular mythology, he has issued only one arbitration award 100 pages in length. He was appointed Vice Chair in September, 1999.

BARBARA JUNKER, *Vice Chair*

Barbara Junker graduated from the University of British Columbia in 1977 with a Bachelor of Commerce Degree. After graduation she worked at Vancouver Hospital and subsequently at Shaughnessy Hospital. In 1983, she joined the accredited bargaining agent for health care employers and was involved in consulting and managing health labour relations in B.C. Before her appointment to the Board, Ms. Junker was responsible for advising on and implementing plans to address strategic issues in health care, as well as planning and research on health labour relations and collective bargaining issues. Ms. Junker was appointed as a Vice Chair in 1994.

SHARON KEARNEY, *Vice Chair*

Sharon Kearney is a graduate of the University of British Columbia where she received a B.A. (Honours) in 1981 and an LL.B. in 1986. She articulated in British Columbia and was called to the B.C. Bar in 1987. She practiced management side labour law with the firm of MacDonald Shier from 1987 to 1989. She then joined the Labour Relations Branch of the British Columbia Provincial Government, where she represented the interests of the Government as employer in grievance arbitrations, Labour Relations Board matters and collective bargaining. In 1993 Ms. Kearney joined Ladner Downs where she practised labour and administrative law representing employers in a wide range of matters. She has been a regular lecturer with the Human Resources Managers Association and has contributed articles for publication with the Continuing Legal Education Society of British Columbia. Ms. Kearney was appointed as a Vice Chair on December 14, 1998.

CATHERINE McCREARY, *Vice Chair*

Catherine McCreary received her LLB from the University of Calgary in 1983. From 1984 to 1997 she practiced labour law in Calgary with the firm of McGown Johnson acting mainly for unions and employees. In 1996 she was elected to the Board of Directors of First Calgary Savings and Credit Union. In 1997 Ms. McCreary moved to Vancouver where she accepted the position of in-house counsel to Teamsters Local 213. In 1999 she was elected to the Board of Directors of VanCity Savings and Credit Union. On October 11, 2000 Ms. McCreary was appointed a Vice Chair of the Labour Relations Board.

GREG MULLALY, Vice Chair

Greg Mullaly took degrees in philosophy at Dalhousie University (B.A. (Hons.), 1975) and the University of Oxford (B. Phil., 1978) before returning to Dalhousie University to study law. He received an LL.B. in 1981 and then practiced labour law for nineteen years, most recently at Victory Square Law Office. Mr. Mullaly was appointed to the Labour Relations Board in June, 2000.

JAN O'BRIEN, Vice Chair

Ms. O'Brien was a Member of the Labour Relations Board for nine years before her appointment as Vice Chair in June 2000. She was co-ordinator of the Capilano College Labour Students Program for two years. She is past President of Local 115-M of the Communications, Energy and Paperworkers' Union and was Administrative Officer of its predecessor, the Vancouver Newspaper Guild. During her 10 years with the union, Ms. O'Brien headed several sets of collective bargaining and led organizing drives. She was a Vice-President of the B.C. Federation of Labour, where she chaired the Women's Rights Committee. She is a former newspaper reporter and a graduate of the University of British Columbia. Ms. O'Brien attended the Harvard University Trade Union Program and is currently working on her MBA at Simon Fraser University.

LAURA PARKINSON, Vice Chair

Laura Parkinson received her LL.B. from the University of British Columbia in 1983 and her LL.M. in Labour Law and Constitutional Law from Queen's University in 1986. Ms. Parkinson served as a Staff Lawyer with the Labour Relations Board in 1986 and 1987. She then returned to the law firm of Baigent, Jackson, Blair where she had previously practised, and remained with that firm and its successor, Victory Square Law Office, until her appointment as a Vice Chair on August 1, 1995.

VLADIMIR (WALTER) PYLYPCHUK, Vice Chair

Walter Pylypchuk received his law degree from the University of Western Ontario and was called to the Bar of Ontario in 1978 and the Bar of British Columbia in 1991. He was in private practice from 1978-80, and then joined the Federal Department of Justice for two years during which time he was seconded to Canada Post Corporation. From 1983 to 1989 Mr. Pylypchuk practised as in-house counsel for Canada Post. He served as a Vice Chair of the Industrial Relations Council from 1989 to 1992. After his term with the Council he joined Swinton and Company where he represented employers, associations and trade unions, until his appointment as a Vice Chair of the Labour Relations Board on August 1, 1995.

KEN SAUNDERS, Vice Chair

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Laws degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996 he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October, 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000 Mr. Saunders was appointed a Vice Chair of the Labour Relations Board.

GORD VAN DYCK, *Vice Chair*

Gord Van Dyck was appointed to the Board as Vice Chair on January 1, 1998. Mr. Van Dyck's background is comprised of almost equal measures of public sector, private sector, union and management experience. He was the Director of Labour Relations for the Workers' Compensation Board of B.C. from 1993 to 1998 and the Assistant Business Manager with Local 213 of the International Brotherhood of Electrical Workers responsible for adjudicative services from 1980 to 1993. His earlier experience includes seven years as the General Manager of Bowmac Transport Ltd., a 1992 appointment to the Labour Relations Board and four years as a part-time Commissioner with the Public Service Commission of B.C.

BOARD MEMBERS

CARMELA ALLEVATO, *Employee Representative*

Carmela Allevato is in-house counsel for the Canadian Union of Public Employees. She served as Chief Administrative Officer of the Hospital Employees' Union for six years. She has extensive experience in advocacy and negotiations.

JOANNE ARNOLD, *Employer Representative*

Joanne Arnold has worked in the human resource/ labour relations field for over 20 years, with the majority of those years being spent in the health care industry. Prior to assuming her current position of Senior Vice President with the Health Employers Association of British Columbia, Ms. Arnold worked as the Executive Director of the Continuing Care Employee Relations Association, and held several positions in the human resources field in both the manufacturing and retail industries. Ms. Arnold is also an employer representative on the Board of the Healthcare Labour Adjustment Agency, an organization focused at reducing the impact of downsizing in health care through the co-operative efforts of both employers and unions.

KEITH BENNETT, *Employer Representative*

Keith Bennett is a graduate of the University of British Columbia. He joined Forest Industrial Relations Limited in 1960 as labour relations assistant and statistician and became assistant manager in March 1969. In 1971 he was appointed manager, then became vice-president in August of 1973, and president in May of 1976, until his retirement in 1997. He was the chief spokesman for the B.C. Coast forest industry in negotiations with IWA Canada. Mr. Bennett is a past chairman of the Labour-Management Committee of the Vancouver Board of Trade, a past member of the Employer-Employee Relations Committee of the Canadian Chamber of Commerce, a past director and former president of the Medical Services Association of B.C. He was a member of the Executive Committee of the Conference Board of Canada, Industrial Relations Section.

MIKE BOCKING, *Employee Representative (to November 8, 2002)*

Mike Bocking is the President of Communication, Energy and Paperworkers Local 2000, also known as the Media Union of B.C. Mike has served in a variety of roles in Local 2000 representing about 2,300 workers primarily employed at newspapers and print shops. Before becoming President of Local 2000, Mike was a reporter assignment editor for the Vancouver Sun newspapers.

PAULA BODDIE, *Employer Representative*

Paula Boddie has worked in the human resources/labour relations field for over 15 years. She has held senior management positions in the federal and provincial sectors, most recently as Vice President of Human Resources at B.C. Transit. Ms. Boddie held a similar position at the Vancouver Port Corporation and at the Vancouver Stock Exchange. Ms. Boddie has extensive experience in labour relations, human resources, and with employment equity and human rights matters and legislation. Currently, Ms. Boddie is a practising consultant in the broad human resources field.

DENISE BUCHANAN, *Employer Representative*

Denise Buchanan presently leads the Human Resources department of White Spot Limited as Director of Human Resources. She is involved in labour and employee relations, training, health and safety, and compensation issues for over 3000 employees. Under her leadership, White Spot Limited was awarded the Quality of Council of BC's Award of Distinction of People Practices in 1999. Her experience includes working with union and non-union, corporate and franchisee environments. She has been involved in many rounds of labour negotiations both as chief spokesperson and as a committee member, and has participated in grievances, hearings and arbitrations on a wide spectrum of issues. Her prior experience includes over 10 years in Operations and Multi-Unit Management, providing her with a solid business management background to complement her human resources expertise.

PAULA BUTLER, *Employer Representative*

Paula Butler is presently working as a sole practitioner. Her practice includes mediation/arbitration services, and harassment and other investigation services to both public and private sector clients. She also provides legal advice to employers on a variety of labour and employment law issues, and is the Manager of Labour Relations at MDS Metro Laboratory Services. Prior to that, Paula worked for the Community Society Services Employers' Association of B.C. as the Acting Director/Team Coordinator of Human Resources/Labour Relations Services. Paula is a graduate of the University of Victoria with a Bachelor of Laws.

NEIL BRADBURY, *Employee Representative*

Neil Bradbury is a National Representative for the Canadian Union of Public Employees. Mr. Bradbury has been a member of the Board of Directors of the Medical Services Association since 1985, serving as Vice Chairman since 1989 as well as Chairman in 1993 and 1994. He is a past member of the Workers' Compensation Boards of Review and has held positions on the executives of CUPE Local 498, CUPE's Fraser Valley District Council, and the CUPE B.C. Executive Board. He has instructed courses for the Canadian Labour Congress, the B.C. Federation of Labour and CUPE's six-level program. He regularly represents employees and locals before tribunals.

VERN CARTER, *Employer Representative (to November 8, 2002)*

Vern Carter was first appointed as a Board Member in August 1992. He was reappointed in November, 2000. He is President of Interior Forest Labour Relations Association. He is responsible for the Association's overall operations, and acts as chief spokesperson in contract negotiations between Southern Interior forest companies and IWA-Canada. Prior to this role, he was Manager of Labour Relations Services for the Health Labour Relations Association of B.C. He has over 20 years human resources experience in the private and public sectors with extensive experience in labour relations, collective bargaining, mediation and arbitration.

RAJ CHOUHAN, *Employee Representative (to November 8, 2002)*

Raj Chouhan was appointed to the position of Board Member in August 1994. He was reappointed in November, 2000. He has many years of diversified experience in labour relations and administration. Since 1986 Mr. Chouhan has been working with the Hospital Employees' Union. He is currently Director of Organizing and Bargaining. He has held various positions including advisor to the Workers' Compensation Board Sub-Committee which was set up to draft health and safety regulations for the agricultural industry, founding member of the B.C. Organization to Fight Racism, and President of the Canadian Farmworkers' Union.

JAYNIE CLARK, *Employee Representative*

Jaynie Clark is an established lay advocate in the labour relation's field. She has been with the BCGEU since 1989 and has worked in the North Peace, Lower Mainland and North Island area offices where she gained broad experience handling and negotiations. Her background includes

participating as lay counsel and as a Board member at various administrative tribunals. She is currently the Advocacy Coordinator responsible for the staff who perform legal research and prepare and present at formal arbitration hearings, Labour Relations Board hearings, all levels of court and Workers' Compensation Board appeals. Ms. Clark is in her fourth term as an Employee member of the Labour Relations Board. She is also serving her second term as a Lay Bench member of the Law Society of B.C. and is the Vice-President of the British Columbia Industrial Relations Association. Prior to joining the BCGEU, Ms. Clark worked with the B.C. Federation of Labour.

DAVID COX, *Employer Representative*

David Cox has worked in the field of employee/labour relations in both the private and public sectors over the past 20 years. He held a number of senior positions which have included responsibility for general human resources, strategic planning, safety and labour relations. In the early 1990's he was Director, Corporate Labour Relations and Safety with B.C. Rail Ltd., and was responsible for all corporate labour relations and occupational health and safety initiatives. He is now a private labour relations consultant.

KAREN DEAN, *Employee Representative*

Karen Dean is Co-ordinator of Servicing for the Hospital Employees Union. She has been a full-time representative for the union since 1987 and, prior to assuming her current position, was Director of Education and Health and Safety. Previously Ms. Dean worked as an organizer for student and tenants rights groups, as a paralegal for the Canadian Farmworkers Union, and as a clerical worker for various unions.

MARIE DECAIRE, *Employee Representative*

Marie Decaire is the Secretary-Treasurer of the Hotel, Restaurant & Culinary Employees and Bartenders Union Local 40, where she has been a member for 20 years and a full-time representative since 1982. Ms. Decaire is an officer of the B.C. Federation of Labour Executive Council and also serves as a Trustee on various health care and pension funds. Ms. Decaire's experience includes grievance arbitration, trade union education and training and contract negotiation.

ANNABELLE P. DONOVAN, *Employer Representative*

Presently Annabelle Donovan is Manager of Human Resources of Western Canada for Signature Vacations. She provides employees relations, organizational development, training, recruitment and compensation and benefit services consultant serving as a Dispute Resolution Officer providing investigation, mediation and complaint administration services. Previously she was Manager of Human Resources for Loomis Courier Service and Manager of Employment Services for B.C. Transit. She was Director of Legal and Legislative Services for Hotel, Restaurant, Culinary Employees and Bartender's Union, Local 40 representing the union in matters before the Labour Relations Board. She developed and delivered workshops concerning management and leadership skills, prevention of workplace harassment and complaint investigation. Annabelle was called to the Bar in 1991.

RALPH ELKE, *Employer Representative*

Ralph Elke is President of R. Elke & Associates and has been involved in labour relations for the past thirty years. Prior to creating his own company, he held senior human resources positions in the mining, transportation and service industries including being responsible for employee relations at Expo 86. He has negotiated over 150 collective agreements in a variety of sectors and has particular expertise regarding the bargaining process as well as in the areas of dispute resolution and collective agreement administration.

ERICH EWERT, *Employee Representative (to November 8, 2002)*

Erich was appointed as a Board Member in September 1998. He was reappointed in November, 2000. He has a long history in industrial relations. He was the financial secretary of IWA Canada, Local 1-217 from 1980 to 1998. Prior to this, he was the first Vice-President of the Local Union from 1970 to 1980. Erich has served on both the Regional Council Executive Board and the National Executive Board of IWA Canada, as well as sitting on the Provincial Negotiating Committee. Other activities that Erich has been involved in are: Trustee of the IWA Forest Industry Long Term Disability Plan, Chair of the Lower Mainland Referral and Assessment Service, Director of the Vancouver Children's Foundation, and an advocate in presenting arbitration cases and workers compensation appeals.

CAROL GIBSON, *Employer Representative*

Carol Gibson has worked in the field of employee and labour relations for more than 25 years, both in the public and private sectors, and was the Vice President, Human Resources, West, with Rogers Cablesystems Limited for 12 ½ years. She is now a private labour relations consultant. She holds the B.A. and M.A. in History from the University of British Columbia.

GEOFFREY HOWES, *Employer Representative*

Geoffrey Howes has 35 years of experience in the restaurant and hospitality industry. He has worked in virtually all aspects of the industry, from waiter to chef to owner. As Director of Operations for Toseki Entertainment Ltd. he is responsible for the day-to-day operation of three fine dining restaurants - Salmon House on the Hill, Aqua Riva and Horizons. He also has considerable experience in labour policy issues, as an executive member of the Coalition of B.C. Businesses and as the Vice-President of Government Affairs for the B.C. Restaurant & Food Services Association.

RONALD S. JACKSON, *Employee Representative (to November 8, 2002)*

Ron was appointed as a Board Member in September 1998. He was reappointed in November, 2000. He retired February 28, 1998 from District 250 of the International Association of Machinists and Aerospace Workers. A journeyman machinist by trade, at the time of his retirement, he had served for ten years as Directing Business Representative. In addition to leading his union during this period, Ron was a Vice-President of the B.C. and Yukon Territory

Building and Construction Trades Council for ten years, served on the Executive Council of the B.C. Federation of Labour and was a Trustee on various union committees, pension, health and welfare and apprenticeship. He was a member of the B.C. Labour Force Development Board.

ERIC JANES, *Employer Representative*

Eric Janes has extensive experience in all aspects of labour relations over the last 20 years and has been the Manager, Labour Relations, at B. C. Hydro from 1987 to 1997. He is currently the Manager of Call Centre Operations in Customer Services for B. C. Hydro. He is also an employer representative on the Joint Advisory Committee to the Collective Agreement Arbitration Bureau, pursuant to Section 83 of the Code.

D. KEVIN KELLY, *Employee Representative*

Kevin Kelly is past President of Kamloops Local 1-417 of the Industrial Wood and Allied Workers Canada. Prior to his election as President in 1983, he was the Financial Secretary for 14 years. Before being elected to a full time position in 1969, he worked in logging, sawmill, plywood and the auto repair business. He is also a Trustee of several forest industry and union benefit plans.

MARK LEFFLER, *Employer Representative*

Mark Leffler is Manager, Human Resources and Labour Relations for the Greater Vancouver Regional District. In that capacity he is responsible for collective bargaining on behalf of 16 municipalities and the Regional District in a voluntary bargaining association. His department negotiates some 60 collective agreements covering more than 13,000 employees, including inside/outside employees, police, firefighters, nurses, museum and public library staff. The department also provides job evaluation, workers' compensation and employment equity services throughout the Region. Mr. Leffler is a graduate of the University of British Columbia and, prior to joining the GVRD in early 1986, held a variety of labour relations and human resource management positions with Ontario Hydro, Liquid Carbonic Canada Ltd. and B. C. Hydro.

R. A. S. (BOB) MARCH, *Employer Representative*

Bob March has been in the personnel labour relations field for over 27 years with Commonwealth Construction. Mr. March's career with Commonwealth began as a Personnel Assistant, through Corporate Safety Officer to Manager of Industrial Relations. He is currently the General Manager of Highways Constructors Ltd. Mr. March is an active participant in the labour relations field. He represents the contractors on numerous boards and committees dealing with a wide variety of issues from labour disputes through to joint apprenticeship training committee functions.

GAIL MARTIN, *Employee Representative*

Gail Martin has worked for B.C. Telephone since 1967. For most of that time she has been involved with the Telecommunications Workers' Union as a Local Executive member. She has

served on several joint committees with company representatives including contracting out and technological change, work jurisdiction and job sharing. Since 1995 she has worked full-time for the TWU. She is also active in her community. In 1990 she was a candidate for Councillor in Delta, currently serves on the Delta Police Board, and is an executive member of the Canadian Association of Police Boards. She is married with two adult children.

RON McEACHERN, *Employer Representative*

Ron McEachern is Deputy Commissioner of the Public Service Employee Relations Commission. In this capacity he is responsible for negotiating and administering collective agreements on behalf of the Provincial Government. His branch negotiates numerous master and component collective agreements covering more than 37,000 employees as well as various professional fee for service contracts. Currently he is a member of the Board of Directors for the Health Employers Association of British Columbia. He has been with the Provincial Government since 1975 and has held various labour relations positions including both Manager and Director of Labour Relations for the Commission. Mr. McEachern is a graduate of the University of Victoria and, prior to joining the public service, was employed in industrial relations with MacMillan Bloedel Ltd.

DONALD MONK, *Employer Representative*

Don Monk is a graduate of the University of British Columbia. He has been Vice-President of Labour Relations for Canada Safeway Limited for the past 17 years. Recently he has stepped down as Vice-President and is now on special assignment reporting to the Executive Vice-President of Labour Relations in California, and the President of Canada Safeway Limited.

MIRIAM OLNEY, *Employee Representative*

Miriam Olney is the former Director of Pensions & Benefits for the United Food and Commercial Workers Union. She retired in 1998 after a 35 year career in the labour movement that included 14 years as an Executive Council Member of the B.C. Federation of Labour. She is currently Secretary Treasurer of the B.C. Federation of Retired Union Members. Miriam is the former Chair and Director of the Insurance Corporation of B.C., and also served as a Director with the National Institute of Disability Management and Research.

WAYNE PALMER, *Employee Representative*

Wayne Palmer was working as a heavy equipment operator on highways in the Yukon Territory when he became President of the Yukon Local of the Public Service Alliance of Canada. He became a representative of the Teamsters Union in 1974 and was elected President of Teamsters Local 213 in 1981. Mr. Palmer retired in 1997. He was appointed to the Board in 1999.

CHARLIE PECK, *Employee Representative (to November 8, 2002)*

Charlie Peck is the Business Manager of the International Brotherhood of Electrical Workers, Local 213, and has been a member of the union since beginning work as an electrician apprentice in 1957. Charlie has served in a number of roles in his union, including Hiring Hall Dispatcher and Secretary-Treasurer. In addition to his duties as Local 213's Business Manager, he is currently Chair of the Provincial Council of Electrical Workers, President of the B.C. and Yukon Territories Building and Construction Trades Council, a Director of Concern Properties and a Vice-President of the B.C. Federation of Labour.

DORIS PENNER, *Employer Representative*

Doris Penner has been a residential building contractor for over 18 years, owning her own company, Quiniscoe Homes Ltd. at Panorama, B.C. She is the immediate Past President of the Canadian Home Builders Association of B.C. and currently serves on the Board of the National Homebuilders Association. Doris currently serves on numerous boards and committees involved with maintaining the health of the residential construction industry. In the past she has served on the executive of both the Yukon and Whitehorse Chambers of Commerce, was the founding President of the Women's Business Network of Yukon, sat as a Director of the Yukon Energy Corporation and Yukon Development Corporation as well as different steering committees having to do with employment in the Yukon. Doris has her real estate sales license, is a residential housing professional, holds a commercial pilot's license and is an aircraft maintenance engineer.

KAREN ROCKWELL, *Employee Representative* (to November 8, 2002)

Karen Rockwell is currently Vice-President of the Office and Professional Employees' International Union Local 378. Karen sits on the Canadian National Committee of her International union, is Chair of the Local's Education Committee and sits on the Local's Arbitration Review Panel. She has been a member of the Union's Collective Bargaining team since 1990. Karen has been employed with the Insurance Corporation of British Columbia since 1987 and works as a litigation adjuster at the ICBC office in Coquitlam.

KATHY SANDERSON, *Employer Representative*

Kathy Sanderson previously served the small business community of B.C. as the Chair of the Coalition of B.C. Businesses and as Director of Provincial Affairs for the Canadian Federation of Independent Business. Currently, Ms. Sanderson works as a consultant and in addition to serving on the Labour Relations Board also sits as a member of the B.C. Labour Force Development Board.

FRANZ SCHERUBL, *Employer Representative*

Franz Scherubl has worked in the labour relations field for close to 20 years. He is currently responsible for labour relations, human resources corporate governance and trade training at BC Gas Utility. He has a Bachelor of Commerce and Business Administration degree from the University of British Columbia and has also worked in mining, insurance and retail services.

MAUREEN SHAW, *Employee Representative (to November 8, 2002)*

Maureen Shaw has been President of the College Institute Educators' Association of B.C. (CIEA) for 3 years and Secretary Treasurer for the previous 3. She has also been a member of the Executive Council of the B.C. Federation of Labour and the BCFL Education Committee. An English instructor at Kwantlen University-College, Maureen has also been active at the local level, serving as Chief Steward, Chief Bargainer and Local President.

MARCIA SMITH, *Employer Representative*

Marcia Smith is the Managing Partner of the Vancouver office of National Public Relations, Canada's largest full-service public relations company. With over 17 years of experience, she covers a wide range of industry sectors and issues, including international trade, forestry, technology, health, labour and employee relations, aboriginal issues and tourism.

COLIN SNELL, *Employee Representative*

Colin Snell is the former President and Secretary Treasurer of the British Columbia Provincial Council of Carpenters. Prior to his election in 1985 to the Provincial Council, he was Business Agent of Carpenters' Vancouver Local Union 452 for 15 years. Mr. Snell has held Executive Council positions with the B.C. Federation of Labour, the B.C. and Yukon Territory Building and Construction Trades Council and the Vancouver and District Labour Council.

DAVID VIPOND, *Employee Representative*

David Vipond has been employed with the BCGEU for 21 years. He has worked in the Kootenays, Okanagan and Lower Mainland Area Offices as a Regional Coordinator. He is currently Chief Negotiator for the Master Agreement with the Province of British Columbia. He is also responsible for membership grievance appeals and is a Trustee for the Public Service Pension Plan. He was a National Industrial Officer in Australia with the Community and Public Sector Union where he was responsible for the federal Attorney General's Department, including all related agencies, boards, commissions and courts. He has previously served as Chair of the Board for Surrey Memorial Hospital and as a member of the Business Task Force

JOHN WEIR, *Employee Representative (to November 8, 2002)*

John Weir is the Assistant to the Secretary-Treasurer and Director of Organizing for the B.C. Federation of Labour. From 1972 to 1980, he was a member of Local 480 of the United Steelworkers of America in Trail, B.C., serving as Chief Shop Steward and Safety Committee Vice-Chair. He represented Trail and Kimberley Steelworkers in several rounds of contract negotiations and was Secretary of the Cominco Chain Bargaining Council in Western Canada. As Financial Secretary of Local 480 from 1980 to 1986, he was responsible for Workers' Compensation advocacy, rehabilitation, benefits and pensions. During this period, he served as labour member of the Unemployment Insurance Board of Referees. In 1986, John was appointed to the Workers' Compensation Review Board. He joined the B.C. Federation of Labour in 1987

as a Staff Director and has worked on a range of labour relations issues including human rights, occupational health and safety and Workers' Compensation. In 1991, John Weir was seconded to the Canadian Labour Congress to coordinate projects in South Africa and the Middle East, returning to the Federation a year later.

DUNCAN WILKINS, *Employer Representative*

Duncan Wilkins has worked in the employee/labour relations field for over 20 years. He had extensive experience in the mining and metals industry with Cominco Ltd., prior to a four year term at the Business Council of B.C., following which he has carried on a consulting practice in the areas of labour relations, human resources and general management.

GARRY WORTH, *Employee Representative*

Garry Worth is the former President of the Pulp, Paper and Woodworkers of Canada (PPWC). He has been active in the PPWC and the Confederation of Canadian Unions since 1979. He became active in PPWC Local 10 in Kamloops, in the mid-1970's in various executive positions including President for six years. He has been involved in several sets of pulp industry bargaining as wage caucus chair and conference spokesman. Mr. Worth has also coordinated the certification and negotiation of first collective agreements for workers in the service industry. He has also conducted union education and training seminars for union stewards.

MEDIATORS

In 2002, the Board's Mediation Division consisted of the following Mediators:

MARK ATKINSON, *Mediator*

Mark Atkinson has been involved with labour relations since 1981. He is a former Staff Representative and Director with the Hospital Employees' Union. His duties included education, negotiations, arbitration, general collective agreement administration and the co-ordination of essential services. Mark joined the Board as a Mediator in 1995.

MARK J. BROWN, *Manager Mediation Services and Vice-Chair*

Mark was appointed to this position in September of 2002.

DEBBIE CAMERON, *Mediator*

Debbie Cameron graduated from the Cariboo College Nursing program in 1976 and worked as a registered nurse for the next four years. In 1981 she was employed by the B.C. Nurses' Union, initially as a Labour Relations Officer, then as Negotiations Officer and in 1992 became the Co-ordinator of Hospitals and Organizing. As Hospitals Co-ordinator she was responsible for negotiations and contract administration of all hospital sector collective agreements, covering more than 17,000 employees. Debbie joined the Board as a mediator in 1994.

JIM KELLY, *Mediator*

Jim Kelly joined the Board in early 1992 following a long career in the union movement. After 13 years with Ford Motor Company, Mr. Kelly resigned his position at Ford and as Vice President of Local 707 United Automobile Workers and assumed a position with the Canadian Union of Public Employees as a National Representative, working for 15 years out of the Kelowna office. He has served on numerous arbitration boards and was responsible for administering a variety of collective agreements. Prior to joining the Board in 1992, Jim worked as a private mediator.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Mr. McArthur joined B.C. Rail in 1986 where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

STEPHEN RINFRET, *Mediator*

Stephen Rinfret has worked in both labour relations and human resources in B.C. for over 20 years. Immediately prior to joining the Board, he was Director of Labour Relations Services for the Continuing Care Employee Relations Association (now HEABC). During this time, Mr. Rinfret also taught an undergraduate course in collective bargaining at Simon Fraser University, and a similar course at the British Columbia Institute of Technology. He holds a Bachelor of Science degree from the University of Montreal (Loyola College) and a Masters degree in Business Administration from Simon Fraser University. Stephen has been with the Board as a mediator since 1994.

BARBARA SHARP, *Mediator*

Barbara Sharp has been involved in labour relations since 1974. A former business agent for both the Workers' Compensation Board Employees' Union and the Office and Technical Employees' Union, Local 378, she assumed a wide variety of responsibilities including organizing, education, negotiations, job evaluation, and general collective agreement administration. She has been an instructor for the Canadian Labour Congress, member of the B.C. Federation of Labour Political Action Committee and the New Westminster Labour Council. She has chaired various union committees such as education, women's rights, and acted as representative in grievance arbitration. Barbara is currently on leave from the Board as Mayor of the City of North Vancouver.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2002 the Adjudication Division published 399 numbered decisions. The following are summaries of some of the more noteworthy decisions issued during the year. These summaries are provided for general information only and should not be viewed as a ruling by the Board or an official interpretation of the *Labour Relations Code*. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca), or can be obtained from Canada Law Book (Official Publisher) (Toll free phone number: 1-800-263-2037), the Vancouver Public Library, or the Vancouver Court House Library. Electronic access is available through Quicklaw (Phone Number) (604) 684-1462.

II. HIGHLIGHTS OF BOARD DECISIONS

Emral Enterprises Ltd., BCLRB No. B5/2002 (Leave for Reconsideration of BCLRB No. B291/2001) – The original panel granted part of the companies' application on the condition that they reimburse the ILWU for its legal costs incurred in various hearings. The original panel found the Code implies the Board has authority to award costs for abuse of process or, alternatively, the Board has authority to award costs pursuant to its condition-making power under Section 134. The reconsideration panel agreed with the original panel about the source of its power to award costs but concluded those two powers are intertwined rather than alternatives. The ability of the Board to grant costs as part of its remedial power under Section 133 or 14 does not limit the Board's authority to award costs to ensure the fair conduct of litigation as part of the Board's exercise of its plenary power to control its processes under Section 126. These two types of cost awards serve different purposes. A remedial award of costs under Section 133 or 14 is granted to compensate for breaches of the Code or a collective agreement whereas an award of costs made as a condition to granting relief is for the purpose of controlling the conduct of litigation before the Board. The companies' application for reconsideration was accordingly dismissed.

Construction Labour Relations Association of British Columbia, BCLRB No. B22/2002 (Leave for Reconsideration of BCLRB No. B389/2001) – Pipefitters, Local 170 and Boilermakers, Lodge 359 each filed reconsideration applications concerning a decision by an original panel addressing a bias objection to that panel hearing three applications before the Board. The bias objection was based on an order made by the Vice-Chair of the original panel in an earlier proceeding. The original panel found the bias objection to be without merit. The fact that it had made findings unfavourable to the Unions did not constitute grounds for an allegation of bias. Nor did the fact that a reconsideration panel had set aside part of its earlier decision. The original panel further noted that the applications before it concerned new events which occurred after the earlier decision, and might involve additional issues.

The reconsideration panel found that the original panel properly dismissed the bias objection. Reasonable persons would believe that the original panel could adjudicate the three applications with an open mind, notwithstanding the earlier order and reconsideration decision. The submission that an adjudicator will attempt to reach the same

outcome on a matter referred back to him or her overlooks the presumption that vice-chairs and board members will act impartially in accordance with their oaths of office. The original panel was in the best position to adjudicate the new applications.

Certain Employees of Starbucks Corporation, BCLRB No. B72/2002 (Leave for Reconsideration of BCLRB No. B351/2001) - The original panel allowed Certain Employees' application for partial decertification and varied the certification by removing the employees at the Cambie Street store. CAW applied for reconsideration of that decision. Among other things, the Reconsideration Panel rejected the Union's argument that Certain Employees were required to establish problems with the existing unit that could not be resolved short of a partial decertification. *White Spot* encourages attempts to find a "less drastic" solution to bargaining unit problems or dissension; however, Certain Employees are not required to establish that problems with the existing unit cannot be resolved by other means, or to provide evidence of prior attempts to resolve problems informally. Certain Employees are also not required in all cases to present evidence establishing that it is a practical impossibility to decertify the entire unit. A panel is entitled to treat this factor as "neutral" if there is no persuasive evidence on this factor. The panel also rejected the Union's argument that the original panel misapplied *IML* in determining that the unit applied for was appropriate.

However, the panel allowed the Union's application on the basis of new evidence. Among other things, the new evidence alleged the Employer had a policy of paying legal fees for employees seeking to decertify and that the Employer had paid Certain Employees' legal fees in respect to the Cambie store partial decertification. Accordingly, the Union's application for reconsideration was allowed in part; the matter was remitted to the original panel to consider the new evidence.

Health Employers Association of British Columbia on behalf of the Greater Victoria Hospital Society (Royal Jubilee Hospital), BCLRB No. B112/2002 (Leave for Reconsideration of No. BCLRB No. B385/99) - The original panel set aside an arbitration decision dealing with the validity of an attendance management program. The arbitration board found the attendance program was unreasonable, in part, because it found the program disciplinary in nature. The original panel disagreed. The reconsideration panel confirmed that the Board reviews, on the standard of correctness, doctrinal approaches that raise interpretations of the Code. However, the mere fact that an issue flows from discipline or termination will not result in the correctness standard of review. There is a difference between applying the wrong framework of analysis and reaching an allegedly wrong conclusion when applying the correct test to the particular facts. While not endorsing all aspects of the original panel's reasoning, the reconsideration panel agreed with its conclusions and dismissed the application for reconsideration.

Certain Employees of Starbucks Coffee Company, BCLRB No. B120/2002 - Certain Employees applied for partial decertification of the Westbank B.C. store location. CAW-Canada, Local 3000 opposed the application in part on the basis that the Employer had improperly interfered in the process by allegedly paying the legal fees of Certain Employees. The Union sought to call a representative of Certain Employees to testify and indicated its intention to ask questions relating to whether the Employer was paying Certain Employees' legal fees. Certain Employees objected on the basis that the questions contemplated related to matters protected by solicitor-client privilege. This decision provided the ruling on the objection.

The panel began by finding that, subject to the claim of solicitor-client privilege, the Union was entitled to call the representative of Certain Employees and put the questions in

issue to that witness. After reviewing the law on solicitor-client privilege, the panel concluded that it did not bar the Union's proposed line of questioning. The panel noted that the Union's questions were not directed at any communication between Certain Employees and their lawyer, but rather sought to ask whether the Employer had offered to pay or was paying Certain Employees' legal fees. Answering these questions did not require Certain Employees to reveal the terms of their retainer with their lawyer. Accordingly, the questions were not barred by solicitor-client privilege.

Alternatively, if answering the questions did require revealing privileged information, then it was appropriate in the circumstances to lift the privilege in a limited manner. Payment of legal fees by an employer may constitute improper interference contrary to the Code. The effect of applying solicitor-client privilege to preclude this line of question would be potentially to shield a third party from a finding of a breach of the Code. In these circumstances, it was appropriate to lift the privilege in a limited manner, so as to allow questioning that would intrude as little as possible into the solicitor-client privilege.

Lake City Casinos Limited, BCLRB No. B177/2002 (Leave for Reconsideration of BCLRB No. B128/2002) – The original panel granted the Employer's application under Section 139 to exclude relief and part-time supervisors who spend more than 60% of their time in the supervisory role from the bargaining unit. BCGEU applied for reconsideration, arguing that the original panel failed to weigh the right of employees to access collective bargaining against the need to ensure industrial stability when determining managerial exclusions; and there was no evidence on which the original panel could conclude that relief and part-time supervisors could not be readily accommodated in the bargaining unit.

The reconsideration panel found the first argument was not made before the original panel and on this basis alone denied leave. However, the panel also found that the argument was flawed. Weighing the right of access to collective bargaining against industrial stability concerns is an *IML* argument relevant to a bargaining unit appropriateness enquiry and is not relevant to the determination of managerial exclusions. Access should not be weighed against other concerns at the managerial exclusion stage because until it is determined that the persons are employees, no right of access exists. On the second argument, the panel found that the Board will not pass judgment on how an employer assigns duties to its supervisors except where the evidence suggests they have been deliberately sprinkled to deprive employees of access to collective bargaining, which allegations implicitly contain an allegation of bad faith. The application for reconsideration was accordingly denied.

British Columbia Lottery Corporation, BCLRB No. B193/2002 (Leave for Reconsideration of BCLRB No. B87/2002) – The Employer applied for reconsideration of a decision finding that it had committed unfair labour practices, and that the unit applied for by BCGEU was appropriate for collective bargaining. With respect to the unfair labour practice finding, the Employer argued that in light of the *Charter*, an employer's conduct can only constitute an unfair labour practice if it involves coercion, intimidation or undue influence.

The reconsideration panel held that this argument could have been made to the original panel but was not. Therefore, it was not an appropriate ground for leave for reconsideration. The Employer's contention that it was merely "reminding" the Board of its obligation to interpret the Code in light of *Charter* values did not assist it. Its argument remained a new argument that could have been, but was not, made to the original panel. If the argument had been made to the original panel, the other party would have had the

opportunity to present evidence and argument in response, which the original panel could then have addressed in its analysis. The original decision was consistent with the Board's approach to Section 6(1) of the Code and with the arguments presented to the original panel. To assess it on the basis of arguments not made to the original panel would be unfair to the respondent. It would also be inconsistent with the labour relations goal of having a final, effective determination from the original hearing. Leave for reconsideration on this issue was accordingly denied.

526254 B.C. Ltd. (Extra Foods No. 8570), BCLRB No. B220/2002 - The Employer applied under Section 49(3) of the Code for an order that the UFCW execute a collective agreement arising from a last offer vote. In an earlier decision (BCLRB No. B170/2002), the panel determined that the Board has jurisdiction to order parties to execute a collective agreement concluded by way of a last offer vote in accordance with Section 78(3). This decision deals with the merits of the application.

The panel found that there was no need for the Employer to establish any particular controversy about the terms or content of the agreement to justify an order. In addition, there was no need for the Employer to establish a labour relations purpose to succeed on the application. This is because the parties' signatures in themselves serve a labour relations purpose by signifying that the parties acknowledge the terms of the collective agreement. In addition, the panel held that Section 49(3) provides that the parties *must* execute a collective agreement concluded by way of collective bargaining. By choosing to express the parties' obligation in mandatory terms, the Legislature created an obligation binding on both the Employer and the Union. Regardless of the presence of any live controversy between the parties about the content or interpretation of the collective agreement, the panel found it was bound to give effect to the Legislature's intention by

requiring that the parties meet their obligation. Accordingly, the Union was ordered to execute the collective agreement concluded by way of the last offer vote and provide a signed copy to the Employer.

BC Rail Ltd., BCLRB No. B272/2002 (Leave for Reconsideration denied in BCLRB No. B311/2002) - IWA, Local 1-424 applied to replace CUTE, Local 6 as the representative of maintenance of way employees within the Council of Trade Unions on BC Rail. The Council objected to the application. In this decision, the panel gave its reasons for its "bottom line" decision dismissing the Council's objections.

The panel rejected the Council's argument that a moratorium on "partial raids" imposed earlier by the Board was still in effect. It also rejected the argument that the Board had no jurisdiction to grant IWA's application. Finally, the panel found that considerations of industrial instability were not sufficient to bar the application. It accepted that allowing raids on constituent members of the Council could have a potentially unsettling effect. However, the evidence indicated that the present application did not pose a risk of instability sufficient to outweigh employee wishes. Balancing the Code's competing objectives of stability and autonomy, the panel concluded that IWA's application should proceed and the ballots should be counted.

Canem Systems Ltd. and Harbour Electric Ltd., BCLRB No. B294/2002 (Leave for Reconsideration of BCLRB No. B191/2002) - Electrical Workers Local 213 applied for reconsideration of an original decision in which its applications under Section 6(1), 35 and 38 of the Code were dismissed for failure to comply with the original panel's pre-hearing directions to provide "will say" statements and a list of the union's witnesses before the hearing.

The original panel had decided in an earlier decision that the union had established a *prima*

facie case, but it did so on the basis that the *prima facie* standard had been met "on a very low threshold or, alternatively, that a *prima facie* case would likely be established during a hearing on the merits". In these circumstances, the original panel directed the union to provide a witness list, will say statements and reliance documents, to ensure that there would be fairness to all parties as well as a proper and efficient utilization of the parties' and the Board's resources. On reviewing the information provided by the union in response to its directions, the original panel concluded that the union had failed to comply with the directions to provide will say statements and a witness list.

The reconsideration panel found that it falls within the discretion of an original panel to order the pre-hearing production of witness lists, will say statements and reliance documents, and that it was not prepared in the circumstances of the case to interfere with the original panel's exercise of its discretion to dismiss the applications under Rule 22A(1) for failure to comply with Board directives. The union had a full opportunity to meet what was being reasonably required by the original panel in order to have a fair and efficient hearing. The union failed to comply with repeated directions of the Board and, as a result, the union's applications were dismissed. The reconsideration panel found that the original panel did not deny the union natural justice, and the original decision was not inconsistent with Code principles. Accordingly, reconsideration was denied.

Health Employers' Association of British Columbia (Fraser Health Authority and Burnaby Hospital), BCLRB No. B334/2002 (Leave for Reconsideration of BCLRB No. B228/2002) – An original panel granted HEU's application for adjournment of HEABC's Part 5 complaint. As the alleged strike activity at Burnaby Hospital had ceased by the time of the Board hearing, the adjournment was granted on the basis of mootness and the approach used in *Citic B.C. Inc.*, BCLRB No. B29/97.

The reconsideration panel found the *Citic* approach is not sufficient for all Part 5 circumstances where alleged illegal conduct has ceased prior to the Board hearing the matter. The Board's approach to mootness is that in *Borowski* (SCC). The shorthand approach in *Citic* risks ignoring important *Borowski* principles and key Code considerations. While the *Citic* approach may be adequate in many cases, a more thorough *Borowski* analysis will be required in others. When the Board is considering its discretion to hear a matter that is otherwise moot, the principles in *Borowski* which govern the exercise of that discretion must be considered.

Where there is evidence of a risk to the health, safety or welfare of patients through cancellation of surgeries or medically necessary procedures as a result of a *prima facie* unlawful, mid-contract work stoppage, the associated social costs and public importance of the issue will in all likelihood require the Board to determine whether the conduct is unlawful. However, not every alleged interruption of medical services will require the Board to exercise its discretion to hear an otherwise moot matter. There may be circumstances where the alleged interference is not great, causing inconvenience as opposed to real prejudice to the delivery of medical services, and there has been a resolution with an undertaking by a union which in all likelihood will prevent recurrence.

Terrace Co-Operative Association, BCLRB No. B352/2002 (Leave for Reconsideration of BCLRB No. B244/2002) – The Employer applied for reconsideration of the original panel's refusal to cancel the certifications of UFCW Locals 1518 and 2000. The original panel held that the Employer had failed to address the issue of its motive for making the application.

The Reconsideration Panel held that the test under Section 33 is whether the employer has established, on a balance of probabilities, that it has ceased to operate and there is no

reasonable likelihood it will re-open in the foreseeable future. There is no list of factors that necessarily must be addressed in answering this question. An employer's motive for applying only becomes relevant where the evidence raises a reasonable inference of an illegitimate motive. In this case, the Employer had met the Board's test in respect of Local 2000's certification, though not in respect of Local 1518's certification. Accordingly, the application for reconsideration was granted in part.

7-Eleven Canada, Inc., BCLRB No. B354/2002 (Leave for Reconsideration of BCLRB No. B130/2002) – UFCW, Local 1518 applied for reconsideration of the original panel's dismissal of its objections to Certain Employees' application for partial decertification. In particular, it argued the original panel erred in its consideration of the timing of the application. The original panel held that merely giving notice to bargain and holding some pre-bargaining meetings with employees did not constitute the "midst of collective bargaining" so as to weigh against granting the application under the criteria in *White Spot Limited*, BCLRB No. B16/2001.

The reconsideration panel held that the fact the application was made at the outset of collective bargaining engaged the same policy concerns as applications in the middle of collective bargaining. Allowing such applications could hamper the union's ability to make compromises in collective bargaining, and thereby lead to industrial instability. The Reconsideration Panel held that the giving of notice to bargain was the appropriate place to draw the line in considering the timing of the partial decertification application. Accordingly, the application for reconsideration was granted, the original decision set aside, and the application for partial decertification dismissed.

Fraser Lake Sawmills Ltd., BCLRB No. B390/2002 (Leave for Reconsideration of BCLRB No. B213/2002) – In an earlier reconsideration decision (BCLRB No. B213/2002) the Board had enunciated a new

test for determining whether an arbitrator should consider an addicted employee's employment-related misconduct on a culpable or non-culpable basis. The primary issue on this reconsideration application was whether this new test, the "significant impairment" test, was consistent with Code principles.

The reconsideration panel held there are three key principles which emerge in respect to arbitral awards concerning discipline or dismissal of addicted employees: 1. all factors must be considered; 2. deference to the arbitral system; and 3. workplace justice through balance, common sense and reasonableness. Applying these principles, the panel concluded that the "significant impairment" test was not consistent with Code principles and should be discontinued.

The Board must be careful not to place unnecessary constraints on arbitrators where, generally, they have been successful in employing a variety of approaches to deal with difficult issues and ultimately fashioning outcomes responsible to all the circumstances of the case. The focus need not be on which vehicle (culpable or non-culpable) is used to address the particular facts of the case, but rather on ensuring that all the circumstances of the case have been considered in fashioning an appropriate remedial response. The significant impairment test imposes a threshold test on arbitrators when there is no pressing need for any such intervention by the Board, and when the appropriate response is best left to arbitrators to fashion on the basis of the circumstances of each case. Accordingly, the reconsideration application was allowed and the significant impairment test was overturned.

IV. JUDICIAL REVIEW

1. *Atkinson et al. v. Christian Labour Association of Canada, Local 66 (Transport, Construction and General Employees' Association) et al* (Oral Reasons for Judgment issued

January 3, 2002, BCSC Vancouver Registry No. L014468) – The Petitioners applied for judicial review of the Board's decision in BCLRB No. B114/2001, which denied the Petitioners leave to apply for reconsideration from the Board's decision in BCLRB No. B362/2000, which in turn had dismissed the Petitioners' Section 12 complaint. The Board denied leave on the basis that a related decision under Section 35 had rendered the Petitioners' Section 12 academic.

In an oral decision, Pitfield J. found that the Board was patently unreasonable in denying leave for reconsideration and that the Board breached the principles of natural justice in failing to seek submissions on whether the Section 35 decision rendered the Section 12 academic. Pitfield J. ordered that the matter be referred back to the Board with directions that it rule on the application for leave to apply for reconsideration in accordance with Section 141 and with the benefit of submissions on the effect of the Section 35 decision on the Section 12 application.

2. ***Local 170 v. Bargaining Council of B.C. Building Trades Unions et al.***, 2002 BCSC 64 (January 16, 2002, Vancouver Registry No. L011809) – Local 170 applied for judicial review of an original decision (BCLRB No. B244/2001) and reconsideration decision (BCLRB No. B269/2001) in which the Board made decisions arising out of negotiations between the Bargaining Council and the CLRA. The Court found that, in view of its decision that the panels' rulings were correct, it need not decide the issue of the appropriate standard of review. The petition was accordingly dismissed.

3. ***Professional Employees' Association v. James et al.***, 2002 BCSC 736 (May 14, 2002, Vancouver Registry No. L020615) – PEA sought judicial review of a reconsideration decision which remitted James' Section 12 complaint to a new original panel: BCLRB No. B69/2002. PEA alleged that the reconsideration decision was patently unreasonable or denied it natural justice by relying on facts asserted by James which were unsupported by a statutory declaration. The Court dismissed the petition on the basis that it was not patently unreasonable or a denial of natural justice for the reconsideration panel to rely on facts which were not disputed by the respondents. (Note: Appeal dismissed with oral reasons: ***Professional Employees' Association v. James et al.***, 2003 BCCA 181)

4. ***Graphic Communications v. Pacific Press et al.***, 2002 BCCA 302 (May 7, 2002, Vancouver Registry No. CA027535) – The issue was whether the principle of union official immunity from discipline was a principle of the Code for purposes of Section 99 review of an arbitration award. The chambers judge had quashed the Board's decisions (BCLRB Nos. B84/98 and B197/98) on the basis that it was not a principle implied in the Code but rather arose from the terms of the collective agreement. On appeal, the Court held that the Board's decision that the principle was an aspect of the Code "just cause" principle was not patently unreasonable. The union official immunity principle is not absolute, but it does limit the just cause principle and consequently it is within the Board's exclusive jurisdiction to review under Section 99. The chambers judge erred when she concluded it was a matter of the "law of the contract" rather than the "law of

the statute". Accordingly, the appeal was allowed and the Board's decision restored.

5. ***CAW-Canada, Local 3000 v. BC Labour Relations Board et al***, 2002 BCSC 769 (May 17, 2002, Vancouver Registry No. L013473) – CAW sought judicial review of an original decision (BCLRB No. B336/2001) and reconsideration decision (BCLRB No. B437/2001) which granted an application for partial decertification of Store No. 135 of the White Spot chain. CAW alleged the original panel was without jurisdiction because the matter had been remitted to it under Section 141(7) of the Code even though it was not "the" panel which had originally heard the application for partial decertification. The reconsideration panel had remitted the matter to a new original panel because "the" original panel was no longer available. The Court dismissed the petition on the basis that the Board did not commit a jurisdictional error or act in a patently unreasonable manner. Looking at Section 141(7) in the context of the Code as a whole, and in particular provisions such as Sections 126, 117 and 156 which give the Board broad, flexible powers to manage its own procedures, it is evident that the Legislature intended to empower the Board with the ability to remit a matter to a differently constituted panel where the original members of the panel are no longer available.
6. ***Atwal et al v. IWA, Local 2171 et al***, 2002 BCSC 915 (June 18, 2002, Vancouver Registry No. L003212) – The Petitioners sought judicial review of an original decision (BCLRB No. B249/2000) and reconsideration decision (BCLRB No. B315/2000) wherein the Board dismissed their Section 12 complaint as untimely. They had filed their Section 12

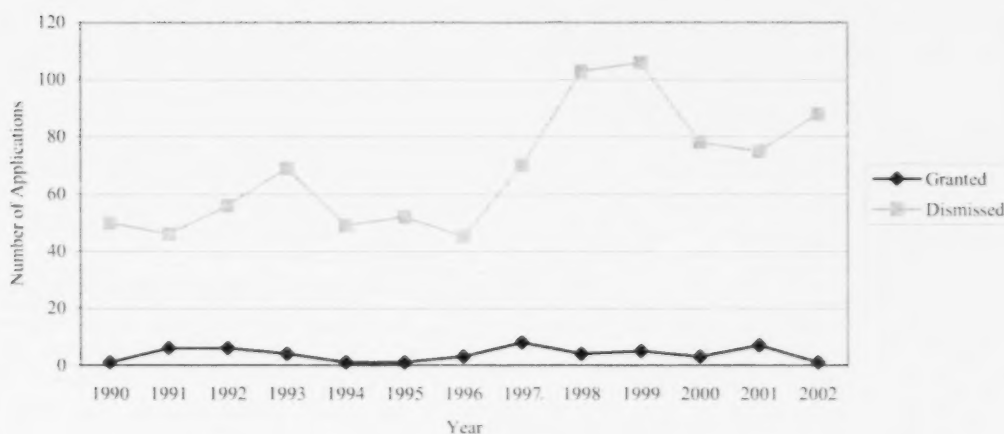
complaint one year following the Union's alleged breach of Section 12. They argued the Board does not have jurisdiction to dismiss Section 12 complaints on the basis of delay rather than on the merits and, alternatively, that the Board's decisions were patently unreasonable. The Court dismissed the judicial review application. It found the Board's jurisdiction to decide a Section 12 complaint implies the right to dismiss it on the basis of timeliness.

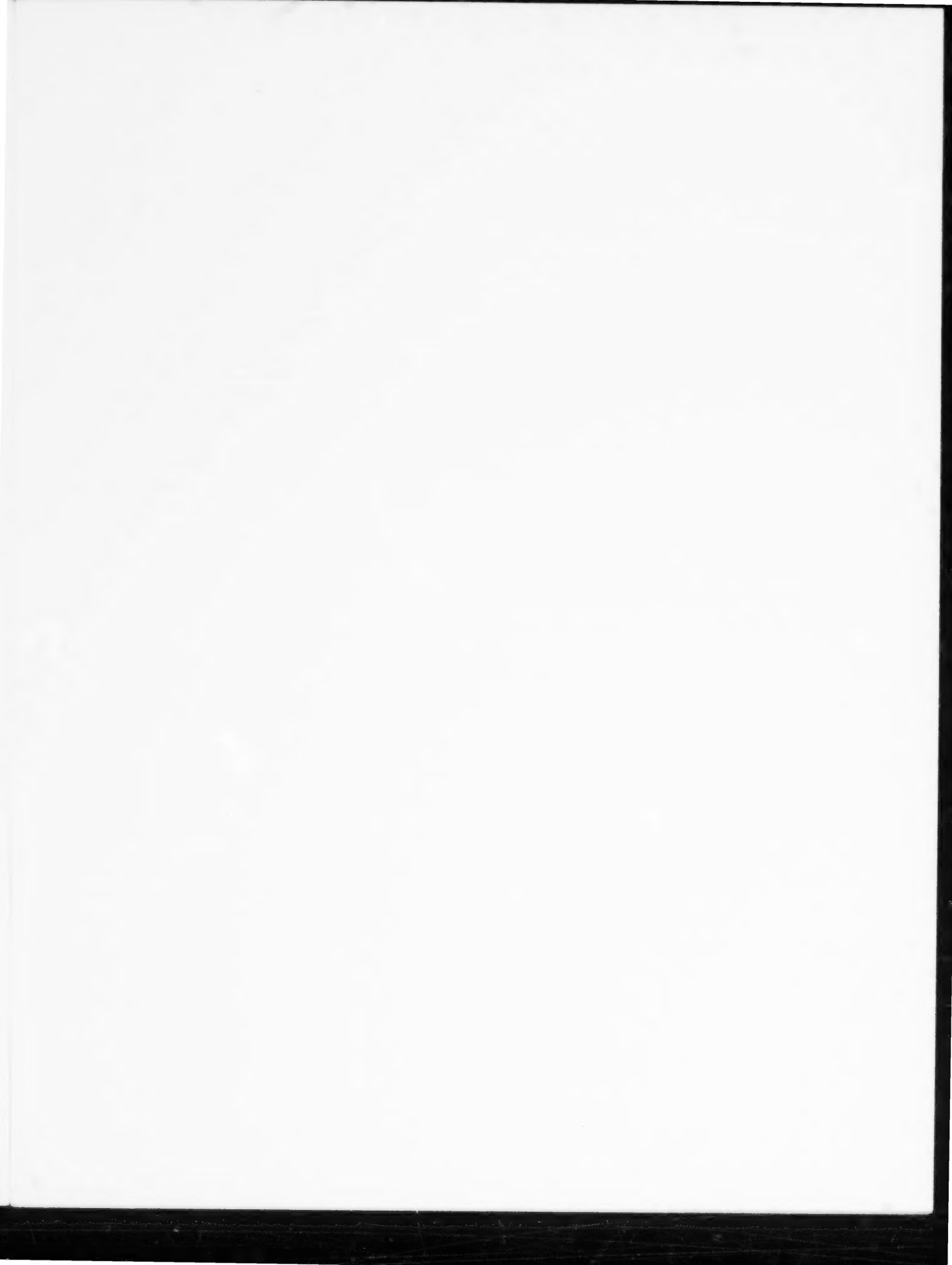
7. ***British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union***, 2002 BCSC 915 (November 27, 2002, Vancouver Registry No. L021053) – The Employer applied for judicial review of the Board's decision to overturn an arbitration award under Section 99: BCLRB No. B443/2001. The issue before the arbitrator was whether certain contract care-givers were independent contractors or employees. The arbitrator determined they were independent contractors. On review under Section 99, the Board determined the arbitrator had given insufficient consideration to the factor of ownership of tools, and set aside the award. The Employer applied for judicial review. The Court held that the determination of who is an "employee" is one of the principles expressed or implied in the Code and other legislation dealing with labour relations. Accordingly, the standard of review was patent unreasonableness. There was nothing in the Board's decision that was patently unreasonable. The petition for judicial review was dismissed.
8. ***Bernardus J. Speckling v. Labour Relations Board of British Columbia, Communications, Energy and Paper Workers' Union of Canada, Local 76, Norske Skog Canada Limited***, 2002

BCSC 1083 (July 19, 2002, Vancouver Registry No. L013283) – Speckling applied for judicial review of a series of five Board decisions dealing with his Section 12 complaint against the Union: BCLRB Nos. B143/2000, B345/2000, B58/2001, B353/2001 and B379/2001. The subject matter of the Section 12 complaint was the Employer's alleged

challenge to Speckling's WCB claim. Speckling argued the Union contravened Section 12 by failing to bring a grievance against the Employer for violating a collective agreement provision requiring it to give notice of a challenge to a WCB claim. Speckling advanced six grounds for review of the Board's decisions. Brown J. rejected all six grounds and dismissed the Petition. (Note: This decision was upheld on appeal: *Speckling v. British Columbia (Labour Relations Board)*, 2003 BCCA 240)

Duty of Fair Representation Decisions





V. STATISTICAL TABLES

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EXPLANATORY NOTES TO TABLES

The following tables provide an analysis of the applications filed and disposed of in 2001. In some cases, statistics from 2000 and other years are provided for comparative purposes. A number of changes have been made over the past few years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for the convenience of users.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the

legislation were not broken down by sub-section. From 1989 on, complaints under each particular sub-section were counted as one complaint. In 1996, the Board decided to revert to the pre 1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the Industrial Relations Act and Sections 5,6,7 and 9 of the Labour Relations Code. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting.

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the Labour Relations Code or ss.2,3, and 4 of the Industrial Relations Act)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP -- Not Published

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each in question. If the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees has been counted as one application.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 has been counted as a separate application.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989. These applications had been processed by the Board/Council since 1974 but had not been registered or counted prior to 1989.

Stay Applications

These applications have been added to applications filed and disposed of in Table 1 for the first time in 1993. They are included in the Miscellaneous category. In previous years, these applications were not counted.

General Notes

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled even in those cases where the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

Applications and Complaints Filed and Disposed of in 2001 - 2002

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Complaints of Unfair Labour Practices										
<i>Complaints Regarding Internal Union Affairs (s.10)</i>	2001	21	21	3	0	7	0	11	0	3
	2002	14	25	3	0	12	0	10	0	2
<i>Complaints Regarding Duty to Bargain in Good Faith (s.11)</i>	2001	61	96	0	0	84	5	7	0	17
	2002	38	41	1	0	32	3	5	0	3
<i>Complaints Regarding Duty of Fair Representation (s.12)</i>	2001	227	224	95	0	47 ¹	7	75 ²	0	19
	2002	177	186	62	0	35 ³	1	88 ⁴	0	16
<i>Other Unfair Labour Practice Complaints (ss.5,6,7, 8 and 9)⁵</i>	2001	339	368	0	0	284	51	33	0	110
	2002	305	315	6	0	207	57	45	0	98
Religious Exemption (s.17)	2001	16	15	3	1	0	11	0	0	0
	2002	14	15	2	2	0	11	0	0	0
Certification Applications (ss.18,19 and 28)	2001	309 ⁶	313	0	99	0	181 ⁷	33	0	254

¹ For 40 settled complaints, a settlement conference was held.

² 37 of the 75 dismissed complaints, filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

³ For 20 settled complaints, a settlement conference was held.

⁴ 29 of the 88 dismissed complaints, filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

⁵ In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. (See Explanatory Notes for details.)

⁶ 30,632 employees were included in the 309 certification applications filed in 2001. Nine of these applications were filed jointly by more than one union. Of the 30,632 employees, 20,765 were included in 21 certification applications filed by West Coast Backgrounders Union, Local 1.

⁷ 5,980 employees were included in the 181 certification applications granted in 2001. Twelve of the certifications granted involving 800 employees were processed under the 'raid' provisions of the legislation.

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
(ss.18,19 and 28)	2002	152 ¹	163	3	33	0	88 ²	39	0	135
Certification Variances (ss.28 and 142)	2001	277 ³	281 ⁴	7	28	0	229	17	0	98
	2002	251 ⁵	252 ⁶	8	35	0	197	12	0	65
Certification Cancellations ⁷ (ss.33 and 142)	2001	117	121	13	15	0	80	13	0	85
	2002	158	157	24	6	0	111	16	0	90
Cancellation of a Voluntary Recognition (s.34)	2001	8	9	0	2	0	6	1	0	8
	2002	7	7	0	1	0	6	0	0	7
Permission to Alter Conditions of Employment (ss.32 and 45)	2001	1	3	0	2	0	1	0	0	1
	2002	2	3	0	2	0	1	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2001	51	64	1	0	48	13	2	0	20
	2002	20	25	0	0	17	5	3	0	7
Declaration of Successor Status										
<i>Successor Employer (s.35)</i>	2001	98	104	0	11	0	85	8	0	8
	2002	115	111	1	20	0	80	10	0	20

¹ 4,706 employees were included in the 152 certification applications filed in 2002. Two of these applications were filed jointly by more than one union.

² 2,306 employees were included in the 88 certification applications granted in 2002. Seven of the certifications granted involving 360 employees were processed under the 'raid' provisions of the legislation.

The estimate of employees per application is derived from the estimate on the union application. Variances do occur between the time of application and the time of disposal of the application. In case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

³ 14 of the 277 certification variance applications filed in 2001 were for partial decertification.

⁴ 15 of the 281 certification variance applications disposed of in 2001 were for partial decertification. See TABLE 3.

⁵ 35 of the 251 certification variance applications filed in 2002 were for partial decertification.

⁶ 32 of the 252 certification variance applications disposed of in 2002 were for partial decertification. See TABLE 3.

⁷ See TABLE 3

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
<i>Successor Union (s.37)</i>	2001	12	14	0	1	0	10	3	0	4
	2002	105	124	0	1	0	123	0	0	19
Common: Employer (s.38)	2001	27	25	0	15	0	6	4	0	8
	2002	27	32	0	16	0	8	8	0	12
Accreditation Applications (s.43)	2001	0	0	0	0	0	0	0	0	0
	2002	1	0	0	0	0	0	0	0	0
Accreditation Variances (ss.43 and 142)	2001	51	51	0	0	0	51	0	0	3
	2002	25	27	0	0	0	27	0	0	0
Accreditation Cancellations (s.142)	2001	0	0	0	0	0	0	0	0	0
	2002	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply With a Collective Agreement (s.49)	2001	6	6	0	0	6	0	0	0	0
	2002	10	15	0	0	8	4	3	0	2
First Collective Agreement (s.55)	2001	27	25	0	0	12	0	0	13 ¹	0
	2002	14	16	0	0	15	0	0	1 ²	1
Appointment of a Mediation Officer (s. 74) ³	2001	0	0	0	0	0	0	0	0	0
	2002	105	112	0	0	89	0	0	23 ⁴	0

¹ For four cases, the dispute was referred to binding arbitration. For five cases, the parties were allowed to exercise their right to strike or lockout. In one case, the appointment under Section 55 was rescinded after a ruling that the vote taken under Section 60 of the *Labour Relations Code* was of no force and effect. For one case, the appointment under Section 55 was rescinded and a mediator appointed under Section 74. In one case, the union was decertified. And for one case, the application was withdrawn prior to meeting with the parties.

² For one case, the dispute was referred to binding arbitration.

³ Statistics are not available for 2001.

⁴ For seven cases, appointment was made under Section 55; in six cases, no agreement was reached; for five cases, dispute was settled at arbitration; in four cases, the union was decertified; and for one case, the file was closed due to inactivity.

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57 to 70)	2001	120	129	0	0	60	58	11	0	76
	2002	56	54	0	0	36	15	3	0	21
Replacement Workers (s.68)	2001	15	15	0	0	10	4	1	0	6
	2002	6	7	0	0	6	0	1	0	3
Essential Service Designations (s.72)	2001	502	503	0	0	74	429	0	0	61
	2002	4	4	0	0	2	2	0	0	1
Last Offer Vote (s.78)	2001	19	20	0	1	0	19 ¹	0	0	1
	2002	20	20	2	0	0	18 ²	0	0	0
Review of Arbitration Award (s.99)	2001	57	60	0	13	0	16	31	0	20
	2002	61	58	0	4	0	12	42	0	11
Interim Order (s.133)	2001	9	13	0	7	0	2	4	0	7
	2002	10	8	0	4	0	1	3	0	5
File an Order in Supreme Court (s.135)	2001	69	72	0	35	0	36	1	0	0
	2002	44	45	0	22	0	22	1	0	0

¹ In 10 cases, the employees voted to reject the offer. In seven cases, the employees voted to accept the offer. In one case, the employer withdrew the application before the vote was held. And for one case, the application was found premature.

² In eight cases, the employees voted to reject the offer. In seven cases, the employees voted to accept the offer. In two cases, the employer withdrew its application before the vote was held, and for one case, the ballot box will remain seized pending result of an unfair labour practice.

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2001	79	87	0	52	0	0	0	35 ¹	35
	2002	40	61	4	24	0	0	0	33 ¹	31
Reconsideration of a Decision (s.141)	2001	104	111	0	13	0	23	75 ²	0	19
	2002	88	92	1	8	0	19	64 ³	0	18
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation) (s.143)	2001	17	11	0	5	0	3	3	0	6
	2002	5	13	0	6	0	2	5	0	5
Miscellaneous	2001	152 ⁴	149 ⁵	0	9	59	62	19	0	30
	2002	137 ⁶	147 ⁷	0	20	63	32	32	0	48
TOTAL	2001	2,791	2,910	122	309	691	1,388	352	48	901 ⁸
	2002	2,011	2,135	117	204	522	845	390	57	620 ⁹

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

¹ Ruling Made.

² For 65 of the 75 applications dismissed, leave to apply was denied. See TABLE 5.

³ For 52 of the 64 applications dismissed, leave to apply was denied. See TABLE 5.

⁴ Includes 14 stay applications.

⁵ Includes 16 stay applications: 12 of which were dismissed, one of which was granted, and three of which were withdrawn.

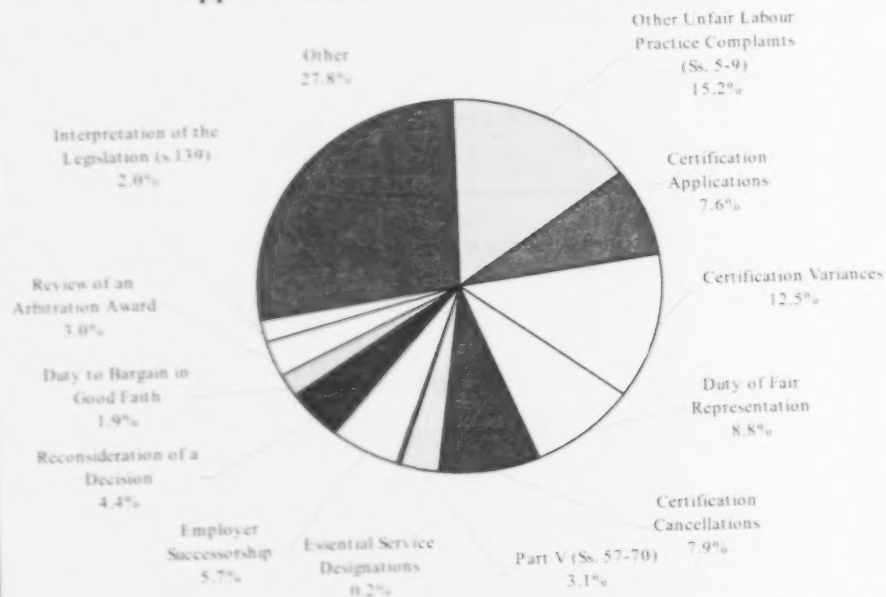
⁶ Includes six stay applications.

⁷ Includes eight stay applications; seven of which were dismissed, and one of which was withdrawn.

⁸ 901 applications disposed of in 2001 were heard some time during the process. In 2001, the Board held 613 hearings (including 402 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2001.

⁹ 620 applications disposed of in 2002 were heard some time during the process. In 2002, the Board held 359 hearings (including 250 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2002.

Applications and Complaints Filed in 2002



Applications and Complaints Filed in 2001

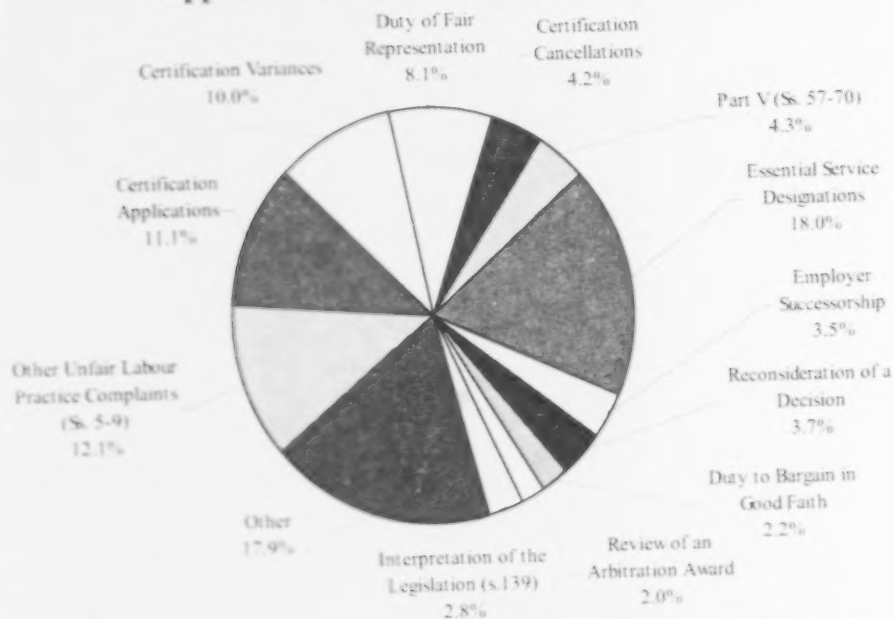


TABLE 1A
Certification Applications Granted in 2002 Analyzed by Industry

Type of Industry	Number of Certification Applications Granted	Number of Employees
Manufacturing	15	593
Construction	17	500
Transportation and Storage	7	312
Communications and other Utilities	1	3
Retail Trade	3	119
Business Services	1	74
Government Services	4	35
Educational Services	1	24
Health and Social Services	21	306
Accommodation, Food and Beverage Services	2	27
Other Services	<u>16</u>	<u>313</u>
TOTAL	<u>88</u>	<u>2,306</u>

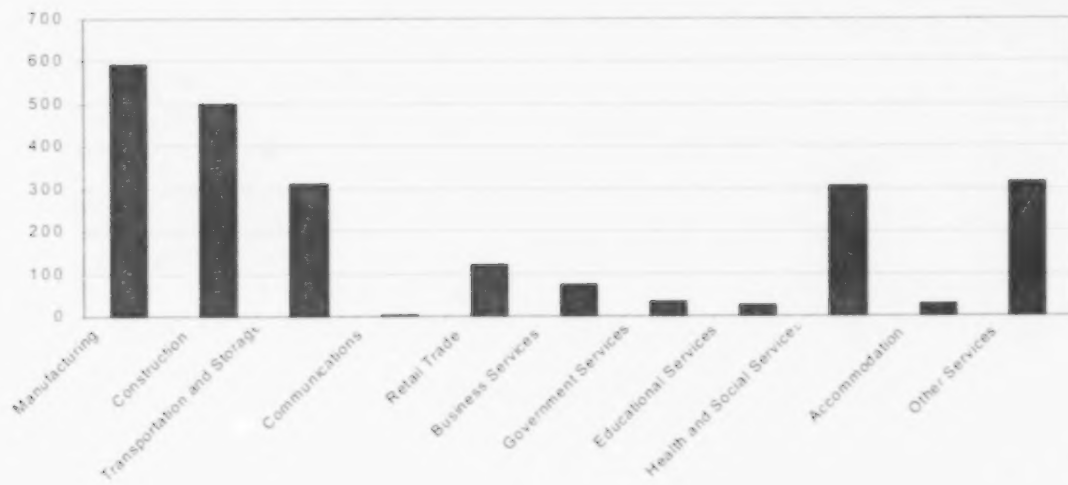
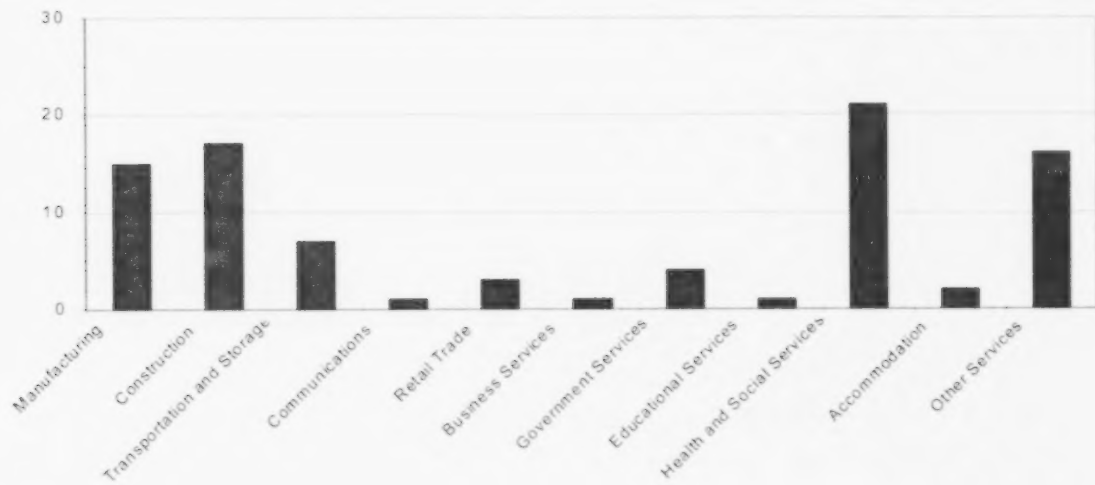
**CERTIFICATION APPLICATIONS GRANTED IN 2002
ANALYZED BY INDUSTRY****Number of Applications**

TABLE 1B
Certification Applications Filed and Granted in 2002 Analyzed by Union

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	Number of Certification Applications Filed	Number of Certification Applications Granted
Boilermakers	1	1
Carpenters	8	6
Cement Masons (formerly identified as Plasterers)	1	0
CLAC	10	6
Electrical Workers (IBEW)	2	1
Glazier & Glass Workers	2	1
Iron Workers	7	3
Labourers	1	0
Machinists & Aerospace Workers	3	2
Operating Engineers (IUOE)	14	6
Painters (<i>excluding Glaziers 1527</i>)	1	0
Plumbers & Refrigeration Workers	3	0
Canadian Union of Skilled Workers – BC	2	0
CEP.	7	6
IWA.	14	4
PPWC.	3	0
Longshore (ILWU)	1	0
ATU (Amalgamated Transit)	1	0
Teamsters	8	6
Hotel Employees	4	3
Service Employees (SEIU)	2	1
Health Science Association (HSA)	4	2

(continued)

TABLE 1B
Certification Applications Filed and Granted in 2002 Analyzed by Union - Continued

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	Number of Certification Applications Filed	Number of Certification Applications Granted
Hospital Employees Union (HEU)	6	6
Nurses (BCNU)	6	4
Telecommunications Workers (TWU)	2	0
CAW	5	1
Steelworkers	1	1
UNITE	2	0
Food & Commercial Workers (UFCW)	4	3
CIEA (Faculty Association)	1	1
CUPE	11	7
BCGEU (<i>excluding Brewery Workers</i>)	15	14
OPEIU/OTEU	2	2
PSAC	1	1
TOTAL	<u>155¹</u>	<u>88</u>

TABLE 2
Certification Applications Decided in 2002

Number of Applications	Granted	Dismissed	Total
Unorganized Employees	7	4	11
Organized Employees	<u>81</u>	<u>35</u>	<u>116</u>
TOTAL	<u>88</u>	<u>39</u>	<u>127</u>

Number of Employees	Granted	Dismissed	Total
Unorganized Employees	360	253	613
Organized Employees	<u>1,946</u>	<u>1,359</u>	<u>3,305</u>
TOTAL	<u>2,306</u>	<u>1,612</u>	<u>3,918</u>

¹ Adding the individual members in the column produces a large number because some applications were filed jointly by more than one union.

TABLE 2A
Certification Applications Granted in 2002 by the Size of the Bargaining Unit

Number of Employees	Number of Certification Applications	Percentage of Certification Applications	Cumulative Percentage
1 to 10	37	42.1%	42.1%
11 to 20	25	28.4%	70.5%
21 to 30	7	8.0%	78.5%
31 to 40	5	5.7%	84.2%
41 to 50	1	1.1%	85.3%
51 to 60	2	2.3%	87.6%
61 to 70	3	3.4%	91.0%
71 to 80	1	1.1%	92.1%
81 to 90	2	2.3%	94.4%
91 to 100	0	0%	94.4%
101 to 200	4	4.5%	98.9%
Over 200	1	1.1%	100%
TOTAL	88		

TABLE 2B
Certification Applications Granted
Between 1990 and 2002 by the Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						Total
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348 ¹
1999	239	65.8%	65	17.9%	59	16.3%	363 ²
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88

¹ One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

² One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

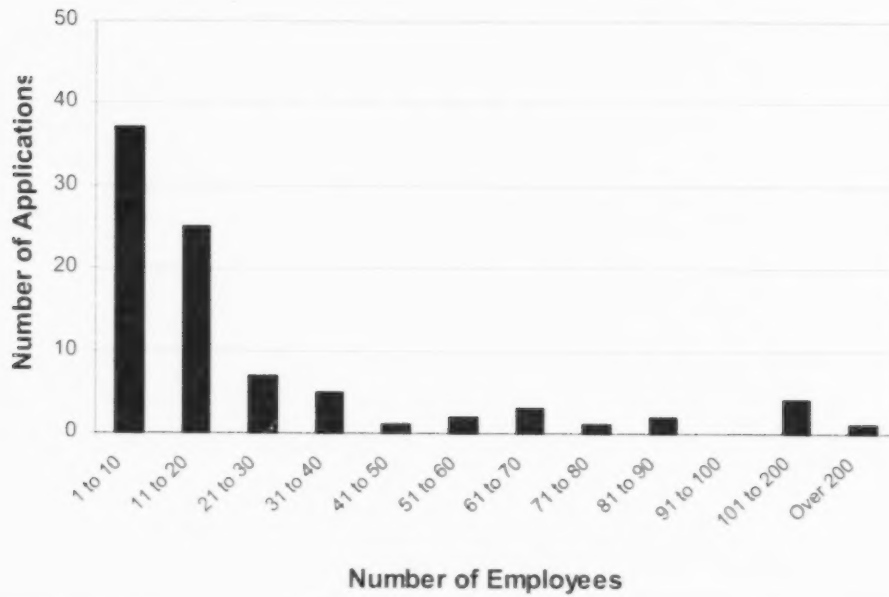
**CERTIFICATION APPLICATIONS GRANTED IN 2002
ANALYZED BY SIZE OF BARGAINING UNIT**

TABLE 3
Applications to Cancel Certifications Disposed of in 2001 - 2002

	Number of Applications	
	2000	2001
Filed by Employee(s) (s.33)		
Granted	87	67
Dismissed.....	29	13
Not Proceeded With.....	27	13
Withdrawn	19	11
TOTAL	162	104
Filed by Employee(s) (s.142)¹		
Granted	2	5
Dismissed.....	0	5
Not Proceeded With.....	0	5
Withdrawn	1	0
TOTAL	3	15
Filed by Employer(s)		
Granted	13	7
Withdrawn	4	3
TOTAL	17	10
Filed by Union(s)		
Granted	15	6
Dismissed.....	2	0
Withdrawn	1	1
TOTAL	18	7
Filed by Employer(s)/Union(s)		
Granted	1	0
TOTAL	1	0
Filed by Employee(s)/Union(s)		
Granted	1	0
TOTAL	1	0
Summary		
Granted	119	85
Dismissed.....	31	18
Not Proceeded With.....	27	18
Withdrawn	25	15
TOTAL	202²	136²

¹ Applications filed under Section 142 for 'partial decertification' are included in TABLE 1 under the category Certification Variances. The inclusion of these applications in TABLE 3 is new for the 2001 Annual Report. The three applications disposed of in 2000 have been included in the total for comparison purposes.

² The summary totals in TABLE 3 do not match the number of Certification Cancellations disposed of in TABLE 1. Three partial decertification plus 199 certification cancellation applications were disposed of in 2000; and 15 partial decertification plus 121 certification cancellation applications were disposed of in 2001.

TABLE 4

Representation Applications Disposed of in 2002 Resulting in a Vote

Type of Application	Number of Applications	Number of Successful Applications	Percentage Successful	Total Number of Eligible Voters
Certification --- a vote for or against one union or between two unions applying for the same unit	105 ⁱ	79	75%	3,236
Certification --- a vote between an applicant and an incumbent union	9	7	78%	547
Expansion of a bargaining unit	32	27	84%	441
Decertification	85	72	85%	2,245
Partial decertification	19	17	89%	420
Cancellation of a voluntarily recognized collective agreement	6	6	100%	81
Successor employer declaration	2	1	50%	155
Arising out of Unfair Labour Practice Complaints	2	2	100%	121
Section 24 application for second vote on an expansion of bargaining unit application	1	1	100%	17
Appeal of raid application	1	1	100%	49
Arising out of a Section 18 application withdrawn on condition that vote be taken to determine the wish of employees	1	0	0%	37
Arising out of a Section 18 application to determine outcome of a related Section 35	1	0	0%	29
Variance - Consolidation of Certifications	<u>1</u>	<u>1</u>	100%	<u>319</u>
TOTAL	<u>265</u>	<u>214</u>	<u>81%</u>	<u>7,697</u>

TABLE 5
Reconsiderations Disposed of in 2002

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty to Bargain in Good Faith	0	1	1	0	0	2
Duty of Fair Representation Adjudication	20	4	3	0	0	27
Unfair Labour Practice Adjudication Excluding Duty of Fair Representation	4	0	1	0	0	5
Certification	7	1	2	2	0	12
Variance of a Certification	0	0	2	2	0	4
Partial Decertification	0	1	2	0	0	3
Cancellation of Certification	0	0	1	0	0	1
Declaration of Employer Successor Status	1	1	2	0	0	4
Declaration of Trade Union Successor Status	1	0	0	0	0	1
Alleged Illegal Strikes, Lockouts, Picketing, etc.	1	0	1	0	0	2
Essential Services Designations	0	0	0	1	0	1
Review of Arbitration Award	7	3	3	0	0	13
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	1	0	1	1	0	3
Appeal for Reconsideration	1	0	0	2	0	3
Ruling re: Appointment of an Arbitrator	0	0	0	0	1	1
Ruling re: Procedure	8	0	0	0	0	8
Ruling re: Remedy	0	1	0	0	0	1
Ruling re: Stay of Decision	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
TOTAL	<u>52</u>	<u>12</u>	<u>19</u>	<u>8</u>	<u>1</u>	<u>92</u>

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	9	4	10	4	1	28
Union(s)	17	3	8	2	0	30
Employee(s)	25	5	1	2	0	33
Employer/Union	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
TOTAL	<u>52</u>	<u>12</u>	<u>19</u>	<u>8</u>	<u>1</u>	<u>92</u>

RECONSIDERATIONS DISPOSED OF IN 2002
(Type of Application being Reconsidered)

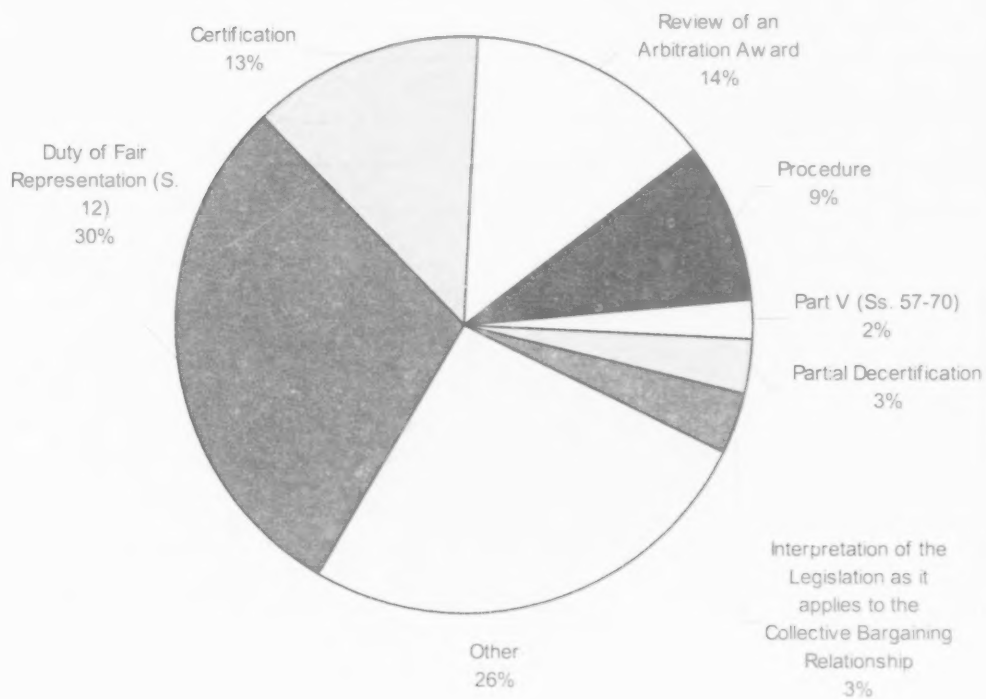


TABLE 6
"Success" Rate of Reconsiderations

	1995	1996	1997	1998	1999	2000	2001	2002
Total Applications Disposed of	131	87	113	134	150	129	111	92
Number of Applications Withdrawn	16	7	21	20	9	11	13	8
Number of Applications Processed to a Final Decision	115	80	92	114	141	118	98	84
Number of Applications resulting in a Revision of the Original Decision	22	8	17	11	22	19	23	19
"Success" Rate of Reconsiderations	19%	10%	18%	10%	16%	16%	23%	23%

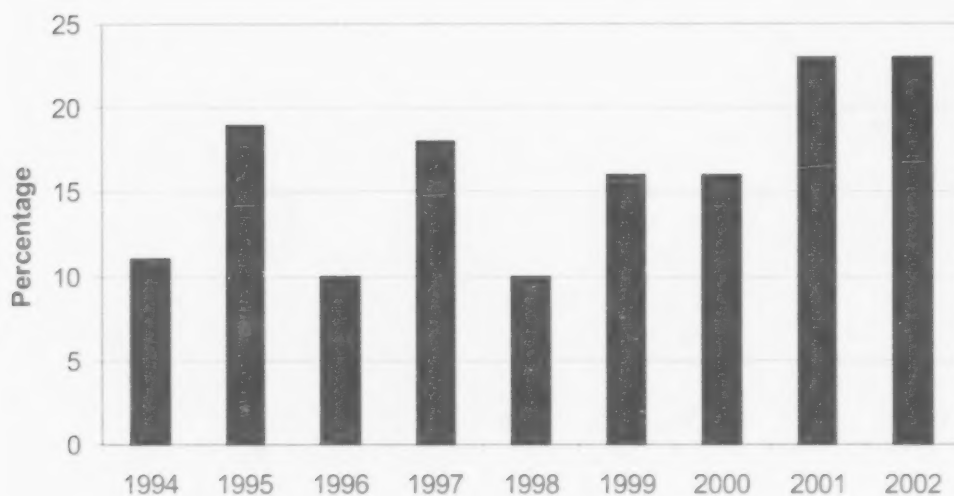
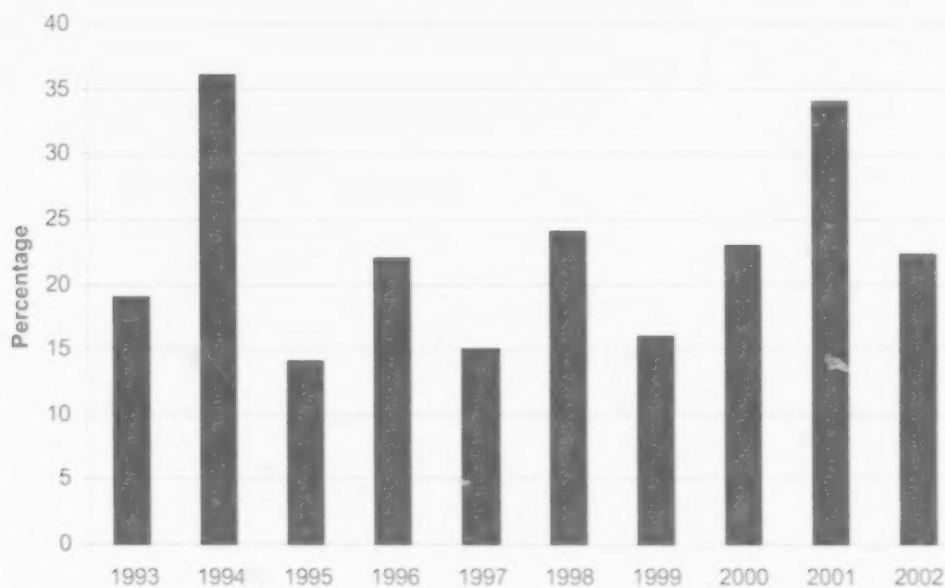
"SUCCESS" RATE OF RECONSIDERATIONS**"SUCCESS RATE" OF REVIEW OF ARBITRATION AWARD**

TABLE 7
Applications Pursuant to Part 5 of the *Labour Relations Code*
Strikes, Lockouts, Picketing, etc.
Disposed of in 2002

Type of Application	Number of Applications	At a Formal Hearing	In a Formal Decision
A			
1. Re: Alleged Illegal Lockout.....	4	0	0
2. Re: Alleged Illegal Strike or a Challenged Strike Vote.....	24	4	7
3. Re: Picketing (Employer Complaint).....	2	0	0
4. Re: Picketing (Trade Union Application for a Declaratory Opinion).....	4	3	0
5. Re: Activity Affecting Business, etc.....	<u>2</u>	<u>1</u>	<u>0</u>
Sub-Total	36	8	7
B.			
a) a violation had occurred or would occur or that a specific activity should be restricted, or			
b) that certain proposed picketing be allowed			
1. Re: Alleged Illegal Lockout.....	0	0	0
2. Re: Alleged Illegal Strike or a Challenged Strike Vote.....	7	7	2
3. Re: Picketing (Employer Complaint).....	6	4	2
4. Re: Activity Affecting Business, etc.....	<u>2</u>	<u>1</u>	<u>0</u>
Sub-Total	15	12	4
C.			
a) by an adjudication that no violation had occurred or would occur or that a specific activity should not be restricted, or			
b) by a refusal to rule on the proceedings			
1. Re: Alleged Illegal Lockout.....	1	1	1
2. Re: Alleged Illegal Strike or a Challenged Strike Vote.....	2	0	2
3. Re: Picketing (Employer Complaint)	0	0	0
4. Re: Picketing (Trade Union Application for a Declaratory Opinion).....	0	0	0
5. Re: Activity Affecting Business, etc.....	0	0	0
Sub-Total	3	1	3
Total	<u>54</u>	<u>21</u>	<u>14</u>

Note: The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8
2002 Applications and Complaints Analyzed by Applicant

	Filed by Employer	Filed by Union	Filed by Employee	Other	Total ¹
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs.....	1	3	10	0	14
Complaints Regarding Duty to Bargain in Good Faith.....	2	36	0	0	38
Complaints Regarding Duty of Fair Representation.....	0	1	176	0	177
Other Unfair Labour Practice Complaints.....	15	271	23	0	305
Religious Exemption	0	0	14	0	14
Certification Applications	0	152	0	0	152
Certification Variances	57	162	35	0	251
Certification Cancellations	11	31	116	0	158
Cancellation of a Voluntary Recognition	2	0	5	0	7
Permission to Alter Conditions of Employment	2	0	0	0	2
Alleged Unlawful Alteration of Employment Terms and Conditions	0	20	1	0	20
Declaration of Successor Status					
Successor Employer.....	27	90	0	0	115
Successor Union.....	0	105	0	0	105
Common Employer	3	26	0	0	27
Accreditation Application	0	1	0	0	1
Accreditation Variances	24	1	0	0	25
Alleged Failure to Execute or Comply With Collective Agreement	3	7	0	0	10
First Collective Agreement	3	11	0	0	14
Appointment of a Mediation Officer	48	59	0	0	105
Part 5 Applications (Strikes, Lockouts, Picketing, etc.)	45	11	0	0	56
Replacement Workers	0	6	0	0	6
Essential Service Designations	0	0	0	4	4
Last Offer Vote	20	0	0	0	20
Review of Arbitration Award	24	28	10	0	61
Interim Order	6	4	0	0	10
File Order in Supreme Court	25	10	3	6	44
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	7	32	1	0	40
Reconsideration of a Decision	27	33	29	0	88
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	3	2	0	0	5
Miscellaneous	17	111	1	9	137
TOTAL.....	372	1,213	424	19	2,011¹

¹ Totals by applicant do not equate with total applications because certain applications were filed jointly by more than one type of party.

TABLE 9

Analysis of Mediation Officer Appointments in 2002

Activity	
Appointments continued from previous year (Section 74)	29
Appointments continued from previous year (Section 55)	5
Appointments made - January 1 to December 31, 2001 (Section 74)	105
Appointments made - January 1 to December 31, 2001 (Section 55)	14
TOTAL	<u>153</u>
Disposition of Appointments	
Mediated settlement (Section 74)	89
Mediated settlement (Section 55)	15
Other (Section 55) - See Table 1 - Footnotes	1
Other (Section 74) - See Table 1 - Footnotes	23
Appointments continuing (Section 55)	3
Appointments continuing (Section 74)	<u>22</u>
TOTAL	<u>153</u>

TABLE 10
Time Required to Process Certain Applications in 2002

Type of Application	Number of Applications Disposed of ¹	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the Labour Relations Code Where a Dismissed Employee is Involved	49	98	69
Complaints Regarding Duty of Fair Representation	124	245	154
Certification	160	66	14
Cancellation of Certification Under Section 33(2) of the <i>Labour Relations Code</i>	91	28	11
Declaration of Successor Employer	110	152	61.5
Common Employer	32	247	104
Review of Arbitration Award	58	180	110
Reconsideration of Decision	91	131	89

¹ Excludes applications not proceeded with because applicant did not file sufficient information

TABLE 11
Officer Assignments in 2002

	Part 5	TYPE OF APPLICATION			Total
		Unfair Labour Practice ²	Certification and Expanded Bargaining Unit	Other	
Settled/Withdrawn	19	73	30 ³	44	166
Resolved Issues/ Assisted at Hearing	0	1	22	14	37
Narrowed Issues/ Assisted at Hearing	1	22	30	30	83
To Adjudication (no informal)	4	20	10	7	41
Report of Investigation	0	1	0	5	6
Other ⁴	<u>4</u>	<u>4</u>	<u>4</u>	<u>10</u>	<u>22</u>
TOTAL	28	121	96	110	355

¹ Includes strikes, lockouts, picketing, etc.

² Excluding duty of fair representation.

³ Prior to 2001, these completed assignments were included in the "Resolved Issues/Assisted at Hearing" category for Certification and Expanded Bargaining Unit files.

⁴ Includes Consent Order issued.

TABLE 12

Requests for Automatic Certification Pursuant to Section 14(4)(f) of the *Labour Relations Code* (Previously Section 8(4)(e) of the *Labour Relations Code* and the *Industrial Relations Act*) as a Result of an Alleged Unfair Labour Practice Violation

YEAR	REQUESTED	GRANTED
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	<u>12</u>	<u>3</u>
TOTAL	<u>641</u>	<u>33</u>

Note: Figures for 1977 to 1992 are from the Board's Annual Reports. Figures for 1993 to 1995 were not included in the Annual Reports for these years.

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.

APPENDIX OF LEGISLATIVE REFERENCE TABLES

Note: The following tables are provided for information only. Persons wishing to rely on legislative material for legal purposes should consult the official sources.

Table A
Statutory History of the *Labour Relations Code*

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
<i>Labour Code Amendment Act</i> , 1982, S.B.C. 1982, c. 59	August 4, 1982 Proclamation		Reg. 354/82, Pt. II, V, 25, p. 564
<i>Regulations Act</i> , S.B.C. 1983, c. 10, s. 21 and 25 and Schedules 2 and 16	October 26, 1983 Regulation	21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154 amended	Reg. 393/83, Pt. II, V, 26, p. 607
<i>Labour Code Amendment Act</i> , 1984, R.S.B.C. 1984, c. 24	June 8, 1984 Regulation	1 - 19 except 13	Reg. 167/84, Pt. II, V, 27, p. 221
	August 27, 1984 Regulation	13	Reg. 274/84, Pt. II, V, 27, p. 358
<i>Commercial Arbitration Act</i> , S.B.C. 1986, c. 3, s. 47	July 4, 1986 Regulation	99(4) repealed	Reg. 148/86
<i>Industrial Relations Reform Act</i> , 1987, S.B.C. 1987, c. 24	July 27, 1987 Regulation	The whole <i>Act</i> except s. 2(c) and that part of s. 60 that enacts s. 137.97 to s. 137.99	Reg. 246/87
<i>Miscellaneous Statutes Amendment Act (No. 5)</i> , 1987, S.B.C. 1987, c. 60, s. 9	December 17, 1987 Royal Assent	26(2) amended	
<i>Budget Measures Implementation Act</i> , 1989, S.B.C. 1989, c. 1, s. 5	Retroactive to April 1, 1988	123.1 amended	
<i>Labour Relations Code</i> , S.B.C. 1992, c. 82	January 18, 1993 Regulation	The whole <i>Code</i> except 53, 54, 83, 86, 87, 104, 105. <i>Industrial Relations Act</i> , R.S.B.C. 1979, c. 212 repealed except s. 74 - 78, 95 and 96	Reg. 6/93
<i>Labour Relations Code</i> , S.B.C. 1992, c. 82	May 1, 1993 Regulation	53, 54 of <i>Code</i> . <i>Industrial Relations Act</i> , R.S.B.C. 1979, c. 212, s. 74 - 78 repealed	Reg. 6/93

Table A
Statutory History of the *Labour Relations Code* -- Continued

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
<i>Labour Relations Code</i> , S.B.C. 1992, c. 82	July 15, 1994 Regulation	83, 86, 87, 104, 105 of the <i>Code</i> . <i>Industrial Relations Act</i> , R.S.B.C. 1979, c. 212, s. 95 and 96 repealed	Reg. 247/94
<i>Labour Relations Code</i> , S.B.C. 1992, c. 82	July 15, 1994 Regulation	105(10) of <i>Code</i> (transitional).	Reg. 248/94
<i>Miscellaneous Statutes Amendment Act (No. 2) 1995</i> , S.B.C. 1995, c. 12, s. 10	June 8, 1995 Royal Assent	105(10) amended	
<i>Employment Standards Act</i> , S.B.C. 1995, c. 38, s. 132	November 1, 1995 Regulation	54(3) amended	Reg. 396/95
<i>Human Rights Amendment Act</i> , 1995, S.B.C. 1995, c. 42, s. 8 ...	October 1, 1996 Regulation	31(b) amended	Reg. 87/96
<i>Statute Revision Act</i> [Section 5 (1)]	April 21, 1997 Order in Council	<i>Labour Relations Code</i> subsections re-numbered	Reg. 92/97
<i>Miscellaneous Statutes Amendment Act, 1997</i> , S.B.C. 1997, c. 27, s. 24 and 34	Retroactive to May 14, 1997. Royal Assent July 28, 1997.	103 repealed	
<i>Labour Relations Code Amendment Act, 1998</i> , S.B.C. 1998, c. 33	August 1, 1998 Regulation	21(1) amended and Part 4.1 added	Reg. 274/98
<i>Regulatory Streamlining Miscellaneous Statutes Act, 1998</i> , S.B.C. 1998, c. 42, s. 21 ...	July 31, 1998 Regulation	51 amended	Reg. 280/98
<i>Miscellaneous Statutes Amendment Act (No. 3), 1999</i> , S.B.C. 1999, c. 39, s. 38	July 15, 1999 Royal Assent	37(1) amended	
<i>Skills Development and Labour Statutes Amendment Act</i> , S.B.C. 2001, c. 33	August 16, 2001 Royal Assent	23 and 26 and Part 4.1 repealed; 72(2.1) added; various amendments	
<i>Labour Relations Code Amendment Act, 2002</i> , S.B.C. 2002, c. 47	Section 1 in force September 1, 2002; Sections 2 to 8 in force July 30, 2002 Regulation	2, 6(1), 8, 83(1), 105(3), 116(2), 121(2) and 159(2) amended	Reg. 182/2002

Table B
Rules and Regulations Under the *Labour Relations Code*

Effective Date	Regulation / Rule	Reference
January 14, 1993	Labour Relations Regulation ¹	Reg. 7/93; O.C. 28/93
January 18, 1993	Labour Relations Board Rules ²	Ministerial Order MN 4; O.C. and Ministerial Order Resume, Vol. 20, No. 1
February 25, 1993	Labour Relations Regulation (minor amendments)	Reg. 59/93 O.C. 209/93
July 15, 1994	Labour Relations Regulation S. 105 Transitional	Reg. 248/94
August 2, 1994	Labour Relations Board Rules ³	Ministerial Order M208; O.C. and Ministerial Order Resume, 1994, Vol. 21, No. 26
June 1, 1999	Labour Relations Regulation ⁴	Reg. 154/99 O.C. 646/99
November 17, 2001	Labour Relations Board Rules ⁵	Ministerial Order M284; O.C. and Ministerial Order Resume, 2001, Vol. 28, No. 35

¹ Two applications resulted in one vote with a two-part ballot because two unions were applying separately for the same unit.

² Excludes applications not proceeded with because applicant did not file sufficient information.

¹ Reg. 7/93 established the Regulations passed pursuant to Section 159 of the *Labour Relations Code* and repealed Reg. 147/87 (the former Industrial Relations (Voting) Regulation).

² Ministerial Order M4 made the Labour Relations Board Rules and repealed the former Industrial Relations (Practice and Procedure) Regulation, which had been referred to as the Industrial Relations Council Rules.

³ Ministerial order M208 approves the Labour Relations Board Rules, 1994, and repeals "any previous Labour Relations Board Rules".

⁴ Regulation 154/99 amends Regulation 7/93 by adding Section 3.1 (Membership evidence - additional requirements for construction industry).

⁵ Ministerial Order M284 corrects a typographical error in Rule 2(3) by striking out "sub-rule 2(d)" and substituting "sub-rule 2(c)".

